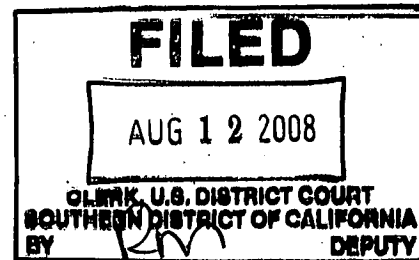
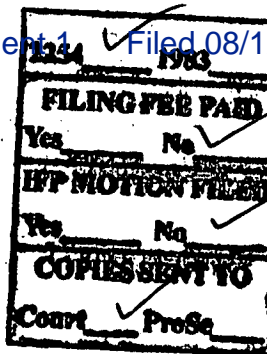


Name Condalee Morris  
 Address P.O. Box 5005  
7013 Blair road Calipatria  
CA 92233-5005  
 CDC or ID Number V-96203



The Supreme Court of the  
State of California in San Francisco  
 (Court)

Condalee Morris  
 Petitioner  
 vs.  
People of the state of California  
 Respondent

PETITION FOR WRIT OF HABEAS CORPUS

No. BA279836  
 (To be supplied by the Clerk of the Court)

**'08 CV 1468 H POR**

### INSTRUCTIONS—READ CAREFULLY

- If you are challenging an order of commitment or a criminal conviction and are filing this petition in the Superior Court, you should file it in the county that made the order.
- If you are challenging the conditions of your confinement and are filing this petition in the Superior Court, you should file it in the county in which you are confined.
- Read the entire form *before* answering any questions.
- This petition must be clearly handwritten in ink or typed. You should exercise care to make sure all answers are true and correct. Because the petition includes a verification, the making of a statement that you know is false may result in a conviction for perjury.
- Answer all applicable questions in the proper spaces. If you need additional space, add an extra page and indicate that your answer is "continued on additional page."
- If you are filing this petition in the Superior Court, you need file only the original unless local rules require additional copies. Many courts require more copies.
- If you are filing this petition in the Court of Appeal, file the original and four copies of the petition and, if separately bound, one copy of any supporting documents.
- If you are filing this petition in the California Supreme Court, file the original and ten copies of the petition and, if separately bound, two copies of any supporting documents.
- Notify the Clerk of the Court in writing if you change your address after filing your petition.
- In most cases, the law requires service of a copy of the petition on the district attorney, city attorney, or city prosecutor. See Penal Code section 1475 and Government Code section 72193. You may serve the copy by mail.

Approved by the Judicial Council of California for use under rule 8.380 of the California Rules of Court (as amended effective January 1, 2007). Subsequent amendments to rule 8.380 may change the number of copies to be furnished to the Supreme Court and Court of Appeal.

This petition concerns:

☒ A conviction☐ Parole☒ A sentence☐ Credits☐ Jail or prison conditions☐ Prison discipline☐ Other (specify): \_\_\_\_\_

1. Your name: Condalee Morris
2. Where are you incarcerated? Calipatria State Prison
3. Why are you in custody? ☒ Criminal Conviction ☐ Civil Commitment

Answer subdivisions a. through i. to the best of your ability.

a. State reason for civil commitment or, if criminal conviction, state nature of offense and enhancements (for example, "robbery with use of a deadly weapon").

Count 1, 2 (211 robbery) (Count 6 422 making a criminal threats) (Count 7, 9 254 (A)(2) assault with weapon) (Count 10 att 211 robbery)

b. Penal or other code sections: Count 1, 2 and 10 12022.53(b) 12022.5(A)(1) in count 6, 7, 9

c. Name and location of sentencing or committing court: Superior Court of California in the County of Los Angeles at (CCB)

d. Case number: BA27936 / B185476

e. Date convicted or committed: 3-4-05 in the county of Los Angeles

f. Date sentenced: on 8-3-05 at 11am in Central District Dept 101

g. Length of sentence: 35-year with 85%

h. When do you expect to be released? 2033

i. Were you represented by counsel in the trial court? ☒ Yes. ☐ No. If yes, state the attorney's name and address:

Steven F. Fisher Deputy Public Defender, 19-513 clare  
Shartidge Foltz criminal justice center 210 West Temple St  
LA CA 90012

4. What was the LAST plea you entered? (check one)

☒ Not guilty ☐ Guilty ☐ Nolo Contendere ☐ Other: \_\_\_\_\_

5. If you pleaded not guilty, what kind of trial did you have?

☒ Jury ☐ Judge without a jury ☐ Submitted on transcript ☐ Awaiting trial

# Legal Argument 1

Punishment for the robbery in Count 1 and the robbery in Count 2 violates Pen Code section 654 and the Double Jeopardy clause of the United States Constitution

Appellant was convicted in Count 1 of robbery (Mr Heladio Rayos) and in Count 2 of robbery (Katherine Rayos). The Court imposed consecutive sentence for each offense. It should have stayed the robbery in Count 2 under Penal code section 654 because both offenses were part of a continuous transaction and ~~arising from~~ arising from single incident

Section 654, subdivision (a) states in relevant part: "An act or omission that is punishable in different way by different provisions of law shall be punished under the provision that provides for the longest potential term of imprisonment, but in no case shall the act or omission be punished under more than one provision." The double jeopardy clause of the federal constitution also protects against multiple punishments for the same offense. (Brown v Ohio (1977) 432 U.S. 161, 165; North Carolina v Pearce (1969) 395 U.S. 711, 717; People v Bradley (2002) 111 Cal App 4th 765, 769; CR 3d 166.

1 Section 654, precludes double punishment  
2 not only for a single act, but also for an  
3 indivisible course of conduct motivated by a  
4 single intent or objective (People v. Latimer (1993)  
5 5 Cal 1203, 1207, 1209.) The divisibility of a course  
6 of conduct depends upon the intent and  
7 objective of the actor, and if all the offenses  
8 are incident to one objective, the defendant  
9 may be punished for any one of them but  
10 not for more than one (Id at p 1208)

### 11 — Sentencing issues —

12  
13  
14 (1) Defendant, contends the imposition  
15 of separate sentence for both robberies  
16 constituted multiple punishment in violation  
17 of 654, with the gun enhancements

18  
19 For Example, Section 654 precludes  
20 multiple punishment for a single act or  
21 omission, or an indivisible course of conduct  
22 (3654 People v. Miller (1977) 18 Cal 3d 873,  
23 880, (135 Cal Rptr 654, 558 P2d 522) If, for  
24 example, a defendant suffers two convictions  
25 punishment for one of which is precluded  
26 by section 654, that section require the  
27 sentence for one conviction to be imposed,  
28 and the other imposed, and then stayed (People

1 v. Miller, *supra*, 18 Cal 3d at p 886.) Section  
2 654 does not allow any multiple punishment,  
3 including either concurrent or consecutive  
4 sentence. (In re Wright (1967) 65 Cal 2d 650  
5 652, 655 (56 Cal Rptr. 110, 422, P2d 998.)) (the  
6 trial court erred in imposing concurrent  
7 sentences for two conviction for which  
8 section 654 prohibited multiple punishment  
9 People v. Miller, *supra* 18 Cal 3d at p 886.)  
10 (Robbery of a victim at gunpoint has been  
11 held to be an act of violence such as  
12 to preclude application of section 654 in  
13 the case of multiple conviction involving  
14 multiple victims

15  
16 Court must impose the longest term,  
17 To determine which term is longest  
18 the court must take into account applicable  
19 specific enhancements

20  
21 For example (People v. Kramer (2002)  
22 29 Cal 4th 720 128 CR2d 407.) In Kramer  
23 the defendant was convicted of pen code  
24 section 246 (seven-year maximum) and  
25 245 (a) (four-year maximum) But with  
26 four-year gun enhancement) The defendant  
27 argued that the § 246 conviction was longer  
28 and that the § 245 (a) <sub>3</sub> count with the gun



Enhancement should be stayed. The court ruled that the enhancement(s) must be included in the calculation and ordered that the § 245 (a) sentence enhanced for the gun use be imposed.

For example, However brandishing of firearm in the presence of a police officer (Pen code § 417 (C) is subject to the limitation of 654, Brandishing a firearm in front of Multiple police officers may only be punished once). People v Hall (2002) 31 Cal 546 101 CR2d 326.

Accordingly the court must stay the robbery in count 2 and the gun enhancements. Where a trial court erroneously fail to stay term subject to section 654, the court must stay sentence on the lesser offense while premitting execution of the greater offense consistent with the intent of the sentencing court". People v Pena (1992) 7 Cal App 4th 1294 (1312), People v Austin (1994) 23 Cal App 4th 1596 (1614).

While the punishment for the home invasion robbery in count 1 is (9-years with the 10-year gun enhancement,

While the punishment for the home invasion robbery in count 2 is 2 year and with the 3-year and 4 months gun enhancements

Accordingly this court must modify the sentence to stay imposition of the term for the robbery in count 2 together with the term for the gun use enhancements attached to the offense

Appellant perfunctorily asserts in his heading that multiple punishment (as to counts 1, 2) violates the federal double jeopardy clause. Moreover, if one offense contains the same element as the other offense the offenses are the same for purpose of double jeopardy clause ~~analysis~~ analysis, and the double jeopardy is applicable. Also as to count(s) 1 and 2 that said defendant(s) Condelee Morris personally used a firearm, a handgun, with the meaning of Penal Code section 12022.53 (b). Also current convictions arising from single incident

**FILED**  
Los Angeles Superior Court

AUG 03 2005

233

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES  
By John A. Clarke, Executive Officer/Clerk DeputyThe People of the State of California  
Plaintiff,  
vs.

CASE NUMBER

DEPARTMENT

BA279836

101

01- MORRIS, CONDALEE  
Defendant.**VERDICT (Guilty)****(COUNT 1)**

We, the jury in the above-entitled action, find the Defendant, CONDALEE MORRIS, guilty of the crime of HOME INVASION ROBBERY of HELADIO RAYOS, in violation of Penal Code Section 211, a Felony, as charged in Count One of the Information and find it to be Robbery of the First Degree.

(Insert "First" or "Second")

We further find the allegation that the above offense was committed by the defendant who voluntarily acted in concert and entered a structure within the meaning of Penal Code Section 213(a)(1)(A) to be TRUE.

(Insert "TRUE" or "NOT TRUE")

We further find the allegation that the Defendant CONDALEE MORRIS personally used a firearm, to wit: a handgun, within the meaning of Penal Code Section 12022.53(b) to be

TRUE  
(Insert "TRUE" or "NOT TRUE")This 3 day of Aug. 2005.**VERDICT (GUILTY)**



1 HELADIO RAYOS,  
2 CALLED AS A WITNESS BY THE PEOPLE, WAS SWORN AND  
3 TESTIFIED THROUGH THE SPANISH INTERPRETER AS FOLLOWS:

4 THE CLERK: PLEASE RAISE YOUR RIGHT HAND TO BE  
5 SWORN.

6 DO YOU SOLEMNLY STATE THAT THE TESTIMONY YOU  
7 MAY GIVE IN THE CAUSE NOW PENDING BEFORE THIS COURT,  
8 SHALL BE THE TRUTH, THE WHOLE TRUTH, AND NOTHING BUT  
9 THE TRUTH, SO HELP YOU GOD?

10 THE WITNESS: I DO.

11 THE CLERK: PLEASE TAKE THE WITNESS STAND.

12 WOULD YOU PLEASE STATE AND SPELL YOUR FULL  
13 NAME FOR THE RECORD.

14 THE WITNESS: HELADIO RAYOS.

15 THE INTERPRETER: INTERPRETER SPELLING, YOUR  
16 HONOR?

17 THE COURT: PLEASE.

18 THE INTERPRETER: H-E-L-A-D-I-O, LAST NAME  
19 R-A-Y-O-S.

20 DIRECT EXAMINATION

21 BY MS. MILLER:

22 Q. MR. RAYOS, YOU UNDERSTAND ENGLISH; IS THAT  
23 CORRECT?

24 A. A LITTLE BIT.

25 Q. BEFORE YOU ANSWER THE QUESTIONS, I NEED TO  
26 MAKE SURE YOU LET ME FINISH, LET THE INTERPRETER  
27 INTERPRET COMPLETELY AND THEN RESPOND IN SPANISH SO THE  
28 INTERPRETER CAN GO AHEAD AND TELL ME WHAT YOU SAID,

1 OKAY.

2 SIR, I WANT TO TAKE YOU BACK TO MARCH FOUR,  
3 2004, AT APPROXIMATELY 1:00 IN THE MORNING.

4 WERE YOU AT 1806 WEST 42ND PLACE IN THE CITY  
5 AND COUNTY OF LOS ANGELES?

6 A. YES.

7 Q. THAT IS 2005, JUST A COUPLE WEEKS AGO,  
8 RIGHT?

9 A. YES.

10 Q. AT THAT DATE, TIME, AND LOCATION, WERE YOU  
11 ASLEEP?

12 A. YES.

13 Q. AND IS THIS A SINGLE FAMILY RESIDENCE?

14 A. YES.

15 Q. DID SOMETHING WAKE YOU UP?

16 A. YES.

17 Q. WHAT WAS THE FIRST THING THAT YOU REMEMBER  
18 THAT WOKE YOU UP?

19 A. MY WIFE.

20 Q. OKAY. WAS SHE SAYING SOMETHING?

21 A. YES.

22 Q. BASED ON WHAT YOUR WIFE WAS SAYING, DID YOU  
23 LOOK SOMEPLACE IN THE HOUSE?

24 A. YES.

25 Q. WHERE DID YOU GO, IF ANYPLACE?

26 A. TO THE KITCHEN.

27 Q. AND DID SOMETHING HAPPEN WHILE YOU WERE IN  
28 THE KITCHEN?

**FILED**

Los Angeles Superior Court

AUG 03 2005

234

John A. Clarke, Executive Officer/Clerk

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES Deputy

The People of the State of California.

Plaintiff,

vs.

01- MORRIS, CONDALEE

Defendant.

CASE NUMBER

DEPARTMENT

BA279836

101

**VERDICT (Guilty)****(COUNT 2)**

We, the jury in the above-entitled action, find the Defendant, CONDALEE MORRIS, guilty of the crime of HOME INVASION ROBBERY of KATHERINE RAYOS, in violation of Penal Code Section 211, a Felony, as charged in Count Two of the Information and find it to be Robbery of the First Degree.

(Insert "First" or "Second")

We further find the allegation that the above offense was committed by the defendant who voluntarily acted in concert and entered a structure within the meaning of Penal Code Section 213(a)(1)(A) to be TRUE.

(Insert "TRUE" or "NOT TRUE")

We further find the allegation that the Defendant CONDALEE MORRIS personally used a firearm, to wit: a handgun, within the meaning of Penal Code Section 12022.53(b) to be

TRUE  
(Insert "TRUE" or "NOT TRUE")

This 3 day of Aug. 2005,

**VERDICT (GUILTY)**

1 COMPLAINT, CONSTITUTIONAL AND STATUTORY RIGHTS.

2 MR. FISHER: YES, YOUR HONOR.

3 THE COURT: THANK YOU. I NOTICE WITNESSES HAVE  
4 BEEN EXCLUDED FROM THE COURTROOM.

5 MS. MILLER: YES.

6 THE COURT: PEOPLE CALL YOUR FIRST WITNESS.

7 MS. MILLER: THANK YOU. PEOPLE CALL KATHLEEN  
8 RAYOS.

9 THE COURT: THANK YOU. PLEASE COME FORWARD,  
10 MA'AM.

11 MS. MILLER: I ASK MY INVESTIGATOR DETECTIVE  
12 FRANCO REMAIN AS MY IO ON THE CASE.

13 THE COURT: THANK YOU. YOU ARE DESIGNATED  
14 INVESTIGATING OFFICER FOR PRELIM ONLY.

15 RAISE YOUR RIGHT HAND TO BE SWORN.

16  
17 KATHERINE RAYOS,  
18 CALLED AS A WITNESS BY THE PEOPLE, WAS SWORN AND  
19 TESTIFIED THROUGH THE SPANISH INTERPRETER AS FOLLOWS:

20 THE CLERK: PLEASE RAISE YOUR RIGHT HAND TO BE  
21 SWORN.

22 DO YOU SOLEMNLY STATE THAT THE TESTIMONY YOU  
23 MAY GIVE IN THE CAUSE NOW PENDING BEFORE THIS COURT,  
24 SHALL BE THE TRUTH, THE WHOLE TRUTH, AND NOTHING BUT  
25 THE TRUTH, SO HELP YOU GOD?

26 THE WITNESS: YES, I DO.

27 THE CLERK: PLEASE TAKE THE WITNESS STAND.

28 WILL YOU PLEASE STATE AND SPELL YOUR FULL

1 NAME FOR THE RECORD.

2 THE WITNESS: KATHERINE RAYOS, K-A-T-H-E-R-I-N-E,  
3 LAST NAME, R-A-Y-O-S.

4 THE COURT: THANK YOU. IF YOU WOULD PLEASE  
5 PROCEED.

6 MS. MILLER: THANK YOU.

7

8 DIRECT EXAMINATION

9 BY MS. MILLER:

10 Q. MISS RAYOS, I WANT TO TAKE YOU BACK TO MARCH  
11 4, 2005 AT APPROXIMATELY 1:00 A.M.

12 WERE YOU LIVING AT 1806 WEST 42ND PLACE IN  
13 THE CITY AND COUNTY OF LOS ANGELES?

14 A. YES, MA'AM.

15 Q. IS THAT A SINGLE FAMILY RESIDENCE?

16 A. YES.

17 Q. AND AT APPROXIMATELY THAT TIME ON THAT DATE,  
18 DID SOMETHING OUT OF THE ORDINARY HAPPEN?

19 A. YES, IT DID.

20 Q. WHAT WAS THE FIRST THING OUT OF THE ORDINARY  
21 THAT YOU NOTICED THAT HAD HAPPENED?

22 A. THE FIRST THING OUT OF THE ORDINARY, I HEARD  
23 A POUNDING NOISE, I THOUGHT MY GRANDSON HAD FALLEN OFF  
24 THE BED.

25 Q. WHERE WAS THAT POUNDING NOISE COMING FROM?

26 A. FROM OUTSIDE THE BACK BEDROOM.

27 Q. IS THERE A DOOR OUTSIDE THE BACK BEDROOM?

28 A. YES, SIR -- YES, MA'AM.



246

MINUTE ORDER  
SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DATE PRINTED: 08/22/05

-----  
CASE NO. BA279836

THE PEOPLE OF THE STATE OF CALIFORNIA  
VS.  
DEFENDANT 01: CONDALEE MORRIS

-----  
INFORMATION FILED ON 04/01/05.

COUNT 01: 211 PC FEL - ROBBERY.  
COUNT 02: 211 PC FEL - ROBBERY.  
COUNT 03: 487(D)(2) PC FEL - GRAND THEFT FIREARM.  
COUNT 04: 12021(C)(1) PC FEL - POSS FIREARM W/ PRIOR CONVCTN.  
COUNT 05: 12021(C)(1) PC FEL - POSS FIREARM W/ PRIOR CONVCTN.  
COUNT 06: 422 PC FEL - MAKING A CRIMINAL THREAT.  
COUNT 07: 245(A)(2) PC FEL - ASSAULT WITH FIREARM ON PERSON.  
COUNT 08: 12021(A)(1) PC FEL - POSSES FIREARM-FELON OR ADDICT.  
COUNT 09: 245(A)(2) PC FEL - ASSAULT WITH FIREARM ON PERSON.  
COUNT 10: 664-211 PC FEL - ATTEMPT ROBBERY.

ON 08/17/05 AT 900 AM IN CENTRAL DISTRICT DEPT 101

CASE CALLED FOR PROBATION AND SENTENCE HEARING

PARTIES: WILLIAM POUNDERS (JUDGE) ALBERTA P. JORDAN (CLERK)  
JEANNE IANNONE (REP) BRADLEY LIEBERMAN (DA)

DEFENDANT IS PRESENT IN COURT, AND REPRESENTED BY STEVEN F. FISHER DEPUTY  
PUBLIC DEFENDER

DEFENDANT WAIVES ARRAIGNMENT FOR JUDGMENT AND STATES THERE IS NO LEGAL CAUSE  
WHY SENTENCE SHOULD NOT BE PRONOUNCED. THE COURT ORDERED THE FOLLOWING  
JUDGMENT:

IMPRISONED IN STATE PRISON FOR A TOTAL OF 35 YEARS

AS TO THE BASE COUNT (01):

COURT ORDERS PROBATION DENIED.

SERVE 19 YEARS IN ANY STATE PRISON

COURT SELECTS THE UPPER TERM OF 9 YEARS AS TO THE BASE TERM COUNT 01.

PLUS 10 YEARS PURSUANT TO SECTION 12022.53(B)P.C.

COUNT (01): DISPOSITION: FOUND GUILTY - CONVICTED BY JURY

PAGE NO. 1

PROBATION AND SENTENCE HEARING  
HEARING DATE: 08/17/05

247

CASE NO. BA279836  
DEF NO. 01

DATE PRINTED 08/22/05

DMV ABSTRACT NOT REQUIRED

NEXT SCHEDULED EVENT:  
SENTENCING

AS TO COUNT (02):

COURT ORDERS PROBATION DENIED.

SERVE 5 YEARS AND 4 MONTHS IN ANY STATE PRISON

COURT SELECTS ONE-THIRD THE MID-TERM OF 6 YEARS WHICH IS 2 YEARS.

PLUS 40 MONTHS PURSUANT TO SECTION SEE COMMENTS

COUNT TWO IS ENHANCED FOR AN ADDITIONAL 40 MONTHS (3.4 YEARS)  
PURSUANT TO PENAL CODE SECTION 12022.53(B), WHICH IS ONE-THIRD  
OF THE TEN YEARS TYPICAL FOR THIS ALLEGATION.  
THE 5.4 YEARS FOR COUNT TWO IS TO BE SERVED CONSECUTIVE TO THE  
SENTENCE IN COUNT ONE.

COUNT (02): DISPOSITION: FOUND GUILTY - CONVICTED BY JURY

DMV ABSTRACT NOT REQUIRED

NEXT SCHEDULED EVENT:  
SENTENCING

AS TO COUNT (06):

COURT ORDERS PROBATION DENIED.

SERVE 24 MONTHS IN ANY STATE PRISON

COURT SELECTS ONE-THIRD THE MID-TERM OF 24 MONTHS WHICH IS 8 MONTHS.

PLUS 16 MONTHS PURSUANT TO SECTION SEE COMMENTS

COUNT SIX IS ENHANCED FOR AN ADDITIONAL 16 MONTHS (1.4 YEARS)  
PURSUANT TO PENAL CODE SECTION 12022.5(A)(1), WHICH IS ONE-THIRD  
THE MID-TERM OF 4 YEARS.  
THE 2 YEARS FOR COUNT SIX IS TO BE SERVED CONSECUTIVE TO THE  
SENTENCE IN COUNTS ONE AND TWO.

COUNT (06): DISPOSITION: FOUND GUILTY - CONVICTED BY JURY

DMV ABSTRACT NOT REQUIRED

NEXT SCHEDULED EVENT:  
SENTENCING

AS TO COUNT (07):

PAGE NO. 2

PROBATION AND SENTENCE HEARING  
HEARING DATE: 08/17/05

248

CASE NO. BA279836  
DEF NO. 01

DATE PRINTED 08/22/05

COURT ORDERS PROBATION DENIED.

SERVE 6 YEARS IN ANY STATE PRISON

COURT SELECTS THE MID TERM OF 2 YEARS AS TO COUNT 07.

PLUS 4 YEARS PURSUANT TO SECTION SEE COMMENTS

COUNT SEVEN IS ENHANCED FOR AN ADDITIONAL 4 YEARS PURSUANT TO  
PENAL CODE SECTION 12022.5(A)(1).  
THE COURT ORDERS THE SIX YEARS FOR COUNT SEVEN IMPOSED AND  
STAYED PURSUANT TO PENAL CODE SECTION 654.

COUNT (07): DISPOSITION: FOUND GUILTY - CONVICTED BY JURY

DMV ABSTRACT NOT REQUIRED

NEXT SCHEDULED EVENT:  
SENTENCING

AS TO COUNT (08):

COURT ORDERS PROBATION DENIED.

SERVE 2 YEARS IN ANY STATE PRISON

COURT SELECTS THE MID TERM OF 2 YEARS AS TO COUNT 08.

THE COURT ORDERS THE TWO YEARS FOR COUNT EIGHT IMPOSED AND  
STAYED PURSUANT TO PENAL CODE SECTION 654.

COUNT (08): DISPOSITION: FOUND GUILTY - CONVICTED BY JURY

DMV ABSTRACT NOT REQUIRED

NEXT SCHEDULED EVENT:  
SENTENCING

AS TO COUNT (09):

COURT ORDERS PROBATION DENIED.

SERVE 4 YEARS AND 4 MONTHS IN ANY STATE PRISON

COURT SELECTS ONE-THIRD THE MID-TERM OF 3 YEARS WHICH IS 1 YEARS.

PLUS 40 MONTHS PURSUANT TO SECTION SEE COMMENTS

COUNT NINE IS ENHANCED FOR AN ADDITIONAL 40 MONTHS (3.4 YEARS)  
PURSUANT TO PENAL CODE SECTION 12022.5(A)(1), WHICH IS ONE-THIRD  
OF THE TEN YEARS ALLOWED FOR THIS ALLEGATION.  
THE 4.4 YEARS FOR COUNT NINE IS TO BE SERVED CONSECUTIVE TO THE  
SENTENCE IN COUNTS ONE, TWO AND SIX.

249

CASE NO. BA279836  
DEF NO. 01

DATE PRINTED 08/22/05

COUNT (09): DISPOSITION: FOUND GUILTY - CONVICTED BY JURY

DMV ABSTRACT NOT REQUIRED

NEXT SCHEDULED EVENT:  
SENTENCING

AS TO COUNT (10):

COURT ORDERS PROBATION DENIED.

SERVE 4 YEARS AND 4 MONTHS IN ANY STATE PRISON

COURT SELECTS ONE-THIRD THE MID-TERM OF 3 YEARS WHICH IS 1 YEARS.

PLUS 40 MONTHS PURSUANT TO SECTION SEE COMMENTS

DEFENDANT GIVEN TOTAL CREDIT FOR 192 DAYS IN CUSTODY 167 DAYS ACTUAL CUSTODY  
AND 25 DAYS GOOD TIME/WORK TIME

PLUS \$20.00 COURT SECURITY ASSESSMENT (PURSUANT TO 1465.8(A)(1) P.C.)

TOTAL DUE: \$20.00

IN ADDITION:

-MAKE RESTITUTION TO THE VICTIM, KATHERINE RAYOS, PURSUANT TO  
PENAL CODE SECTION 1203.04 IN THE AMOUNT OF \$3,400.00.

-THE DEFENDANT IS TO PAY A RESTITUTION FINE PURSUANT TO SECTION  
1202.4(B) PENAL CODE IN THE AMOUNT OF \$6,600.00.

-DEFENDANT IS TO PAY A PAROLE RESTITUTION FINE, PURSUANT TO PENAL  
CODE SECTION 1202.45, IN THE AMOUNT OF \$6,600.00.  
SAID FINE IS STAYED AND THE STAY IS TO BECOME PERMANENT UPON  
SUCCESSFUL COMPLETION OF PAROLE.

-THE COURT ADVISES THE DEFENDANT OF APPEAL RIGHTS.

-THE COURT ORDERS THAT THE DEFENDANT PROVIDE TWO SPECIMENS OF  
BLOOD, A SALIVA SAMPLE, RIGHT THUMBPRINT, AND A FULL PALM PRINT  
IMPRESSION OF EACH HAND FOR LAW ENFORCEMENT IDENTIFICATION  
ANALYSIS.

COUNT TEN IS ENHANCED FOR AN ADDITIONAL 40 MONTHS (3.4 YEARS)  
PURSUANT TO PENAL CODE SECTION 12022.53(B), WHICH IS ONE-THIRD  
OF THE TEN YEARS TYPICAL FOR THIS ALLEGATION.  
THE 4.4 YEARS FOR COUNT TEN IS TO BE SERVED CONSECUTIVE TO THE  
SENTENCE IN COUNTS ONE, TWO, SIX AND NINE.

THE DEFENDANT IS REMANDED TO STATE PRISON, FORTHWITH.

PAGE NO. 4

PROBATION AND SENTENCE HEARING  
HEARING DATE: 08/17/05

1 PRESENT. CONTINUING THEN WITH THE INSTRUCTIONS, THE TOPIC  
2 NOW BEING THE CRIMES CHARGED.

3 (READING:)

4 THE DEFENDANT IS  
5 ACCUSED IN COUNTS 1 AND 2 OF HAVING  
6 COMMITTED THE CRIME OF ROBBERY, A  
7 VIOLATION OF SECTION 211 OF THE PENAL  
8 CODE.

9 EVERY PERSON WHO  
10 TAKES PERSONAL PROPERTY IN THE  
11 POSSESSION OF ANOTHER AGAINST THE  
12 WILL AND FROM THE PERSON OR IMMEDIATE  
13 PRESENCE OF THAT PERSON ACCOMPLISHED  
14 BY MEANS OF FORCE OR FEAR AND WITH  
15 THE SPECIFIC INTENT PERMANENTLY TO  
16 DEPRIVE THAT PERSON OF THE PROPERTY  
17 IS GUILTY OF THE CRIME OF ROBBERY, IN  
18 VIOLATION OF PENAL CODE SECTION 211.

19 THE WORDS "TAKES" OR  
20 "TAKING" REQUIRE PROOF OF:

21 ONE, TAKING  
22 POSSESSION OF THE PERSONAL PROPERTY;  
23 AND, TWO, CARRYING IT  
24 AWAY FOR SOME DISTANCE SLIGHT OR  
25 OTHERWISE.

26 "IMMEDIATE PRESENCE"  
27 MEANS AN AREA WITHIN THE ALLEGED  
28 VICTIM'S REACH, OBSERVATION OR



1 CONTROL SO THAT HE OR SHE COULD, IF  
2 NOT OVERCOME BY VIOLENCE OR PREVENTED  
3 BY FEAR, RETAIN POSSESSION OF THE  
4 SUBJECT PROPERTY.

5 "AGAINST THE WILL"  
6 MEANS WITHOUT CONSENT.

7 IN ORDER TO PROVE  
8 THIS CRIME, EACH OF THE FOLLOWING  
9 ELEMENTS MUST BE PROVED:

10 ONE, A PERSON HAD  
11 POSSESSION OF PROPERTY OF SOME VALUE,  
12 HOWEVER SLIGHT;

13 TWO, THE PROPERTY WAS  
14 TAKEN FROM THAT PERSON OR FROM HIS OR  
15 HER IMMEDIATE PRESENCE;

16 THREE, THE PROPERTY  
17 WAS TAKEN AGAINST THE WILL OF THAT  
18 PERSON;

19 FOUR, THE TAKING WAS  
20 ACCOMPLISHED EITHER BY FORCE OR FEAR;

21 AND, FIVE, THE  
22 PROPERTY WAS TAKEN WITH THE SPECIFIC  
23 INTENT PERMANENTLY TO DEPRIVE THAT  
24 PERSON OF THE PROPERTY.

25 FOR THE PURPOSES OF  
26 DETERMINING WHETHER A PERSON IS  
27 GUILTY AS AN AIDER AND ABETTOR TO  
28 ROBBERY, THE COMMISSION OF THE CRIME

1 OF ROBBERY IS NOT CONFINED TO A FIXED  
2 PLACE OR A LIMITED PERIOD OF TIME AND  
3 CONTINUES SO LONG AS THE STOLEN  
4 PROPERTY IS BEING CARRIED AWAY TO A  
5 PLACE OF TEMPORARY SAFETY.

6 THE ELEMENT OF FEAR  
7 IN THE CRIME OF ROBBERY MAY BE  
8 EITHER:

9 ONE, THE FEAR OF AN  
10 UNLAWFUL INJURY TO THE PERSON OR  
11 PROPERTY OF THE PERSON ROBBED OR TO  
12 ANY OF HIS OR HER RELATIVES OR FAMILY  
13 MEMBERS;

14 OR, TWO, THE FEAR OF  
15 AN IMMEDIATE AND UNLAWFUL INJURY TO  
16 THE PERSON OR PROPERTY OF ANYONE IN  
17 THE COMPANY OF THE PERSON ROBBED AT  
18 THE TIME OF THE ROBBERY.

19 THERE ARE TWO DEGREES  
20 OF ROBBERY. EVERY ROBBERY OF ANY  
21 PERSON WHICH IS PERPETRATED IN AN  
22 INHABITED DWELLING HOUSE IS ROBBERY  
23 OF THE FIRST DEGREE. ALL OTHER  
24 ROBBERIES ARE OF THE SECOND DEGREE.

25 IF YOU FIND THE  
26 DEFENDANT GUILTY OF ROBBERY OR  
27 ATTEMPTED ROBBERY, YOU MUST DETERMINE  
28 THE DEGREE THEREOF AND STATE THAT

1 DEGREE IN YOUR VERDICT. IF YOU HAVE  
2 A REASONABLE DOUBT WHETHER THE  
3 ROBBERY IS OF THE FIRST OR SECOND  
4 DEGREE, YOU MUST FIND IT TO BE OF THE  
5 SECOND DEGREE.

6 EVERY PERSON WHO  
7 VOLUNTARILY ACTING IN CONCERT WITH  
8 TWO OR MORE OTHER PERSONS COMMITS  
9 ROBBERY WITHIN AN INHABITED DWELLING  
10 HOUSE IS GUILTY OF VIOLATING PENAL  
11 CODE SECTION 213(A)(1)(A), A CRIME.

12 THE TERM "ACTING IN  
13 CONCERT" MEANS TWO OR MORE PERSONS  
14 ACTING TOGETHER IN A GROUP CRIME, AND  
15 INCLUDES NOT ONLY THOSE WHO  
16 PERSONALLY ENGAGE IN THE ACT OR ACTS  
17 CONSTITUTING THE CRIME BUT ALSO THOSE  
18 WHO AID AND ABET A PERSON IN  
19 ACCOMPLISHING IT; HOWEVER, WHEN THE  
20 CRIME CHARGED IS ROBBERY IN CONCERT,  
21 THERE MUST BE AT LEAST THREE PERSONS,  
22 INCLUDING ANY DEFENDANT ACTING IN  
23 CONCERT.

24 TO ESTABLISH THAT A  
25 DEFENDANT VOLUNTARILY ACTED IN  
26 CONCERT WITH OTHER PERSONS, IT IS NOT  
27 NECESSARY TO PROVE THAT THERE WAS ANY  
28 PREARRANGED PLANNING OR SCHEME.

1 I'M SORRY.

2 PREARRANGEMENT,

3 PLANNING OR SCHEME.

4 IN ORDER TO PROVE  
5 THIS CRIME, EACH OF THE FOLLOWING  
6 ELEMENTS MUST BE PROVED:

7 ONE, A ROBBERY WAS  
8 COMMITTED;

9 TWO, THE ROBBERY WAS  
10 COMMITTED WITHIN AN INHABITED  
11 DWELLING HOUSE;

12 AND, THREE, THE  
13 DEFENDANT VOLUNTARILY ACTED IN  
14 CONCERT WITH TWO OR MORE OTHER  
15 PERSONS IN COMMITTING THE ROBBERY.

16 AN INHABITED DWELLING  
17 HOUSE IS A STRUCTURE WHICH IS  
18 CURRENTLY USED AS A DWELLING, WHETHER  
19 OCCUPIED OR NOT. IT IS INHABITED  
20 ALTHOUGH THE OCCUPANTS ARE  
21 TEMPORARILY ABSENT.

22 DEFENDANT IS ACCUSED  
23 IN COUNT 10 OF HAVING COMMITTED THE  
24 CRIME OF ATTEMPTED FIRST DEGREE  
25 ROBBERY. AN ATTEMPT TO COMMIT A  
26 CRIME CONSISTS OF TWO ELEMENTS,  
27 NAMELY A SPECIFIC INTENT TO COMMIT  
28 THE CRIME AND A DIRECT, BUT

1                   INEFFECTUAL, ACT DONE TOWARD ITS  
2                   COMMISSION.

3                   IN DETERMINING  
4                   WHETHER THIS ACT WAS DONE, IT IS  
5                   NECESSARY TO DISTINGUISH BETWEEN MERE  
6                   PREPARATION ON THE ONE HAND AND THE  
7                   ACTUAL COMMENCEMENT OF THE DOING OF  
8                   THE CRIMINAL DEED ON THE OTHER.

9                   MERE PREPARATION,  
10                  WHICH MAY CONSIST OF PLANNING THE  
11                  OFFENSE, OF DEVISING, OBTAINING OR  
12                  ARRANGING THE MEANS FOR ITS  
13                  COMMISSION IS NOT SUFFICIENT TO  
14                  CONSTITUTE AN ATTEMPT; HOWEVER, ACTS  
15                  OF A PERSON WHO INTENDS TO COMMIT A  
16                  CRIME WILL CONSTITUTE AN ATTEMPT  
17                  WHERE THOSE ACTS CLEARLY INDICATE A  
18                  CERTAIN UNAMBIGUOUS INTENT TO COMMIT  
19                  THIS SPECIFIC CRIME.

20                  THOSE -- THESE ACTS  
21                  MUST BE AN IMMEDIATE STEP IN THE  
22                  PRESENT EXECUTION OF THE CRIMINAL  
23                  DESIGN, THE PROGRESS OF WHICH WOULD  
24                  BE COMPLETED UNLESS INTERRUPTED BY  
25                  SOME CIRCUMSTANCE NOT INTENDED IN THE  
26                  ORIGINAL DESIGN.

27                  THE DEFENDANT IS  
28                  ACCUSED IN COUNT 3 OF HAVING



1 ANY VERDICT OR FINDING IS NOT YOURS, YOU WOULD INDICATE  
2 THAT BY SAYING NO; IF THEY ARE ALL YOUR VERDICTS, YOU  
3 WOULD SAY YES WHEN POLLED.

4 THE CLERK: "TITLE OF COURT  
5 AND CAUSE.

6 "COUNT 1.

7 "WE, THE JURY IN THE  
8 ABOVE-ENTITLED ACTION, FIND THE  
9 DEFENDANT, CONDALEE MORRIS, GUILTY OF  
10 THE CRIME OF HOME INVASION ROBBERY OF  
11 HELADIO RAYOS, IN VIOLATION OF PENAL  
12 CODE SECTION 211, A FELONY, AS  
13 CHARGED IN COUNT 1 OF THE  
14 INFORMATION, AND FIND IT TO BE  
15 ROBBERY OF THE FIRST DEGREE.

16 "WE FURTHER FIND THE  
17 ALLEGATION THAT THE ABOVE OFFENSE WAS  
18 COMMITTED BY THE DEFENDANT WHO  
19 VOLUNTARILY ACTED IN CONCERT AND  
20 ENTERED A STRUCTURE, WITHIN THE  
21 MEANING OF PENAL CODE SECTION 213  
22 SUBSECTION (A) SUBSECTION (1)  
23 SUBSECTION (A) TO BE TRUE.

24 "WE FURTHER FIND THE  
25 ALLEGATION THAT THE DEFENDANT,  
26 CONDALEE MORRIS, PERSONALLY USED A  
27 FIREARM, TO WIT, A HANDGUN, WITHIN  
28 THE MEANING OF PENAL CODE SECTION

1 12022:53 SUBSECTION (B) TO BE TRUE.

2 "THIS 3RD DAY OF  
3 AUGUST, 2005.

4 "SIGNED JUROR NO. 10,  
5 FOREPERSON.

6 "COUNT 2.

7 "WE, THE JURY IN THE  
8 ABOVE-ENTITLED ACTION, FIND THE  
9 DEFENDANT, CONDALEE MORRIS, GUILTY OF  
10 THE CRIME OF HOME INVASION ROBBERY OF  
11 KATHERINE RAYOS, IN VIOLATION OF  
12 PENAL CODE SECTION 211, A FELONY, AS  
13 CHARGED IN COUNT 2 OF THE  
14 INFORMATION, AND FIND IT TO BE  
15 ROBBERY OF THE FIRST DEGREE.

16 "WE FURTHER FIND THE  
17 ALLEGATION THAT THE ABOVE OFFENSE WAS  
18 COMMITTED BY THE DEFENDANT WHO  
19 VOLUNTARILY ACTED IN CONCERT AND  
20 ENTERED A STRUCTURE, WITHIN THE  
21 MEANING OF PENAL CODE SECTION 213  
22 SUBSECTION (A) SUBSECTION (1)  
23 SUBSECTION (A) TO BE TRUE.

24 "WE FURTHER FIND THE  
25 ALLEGATION THAT THE DEFENDANT,  
26 CONDALEE MORRIS, PERSONALLY USED A  
27 FIREARM, TO WIT, A HANDGUN, WITHIN  
28 THE MEANING OF PENAL CODE SECTION

1 PENAL CODE SECTION 1203.06 SUBSECTION  
2 (A) SUBSECTION (1) AND 12022.5  
3 SUBSECTION (A) SUBSECTION (1) TO BE  
4 TRUE.

5 "THIS 3RD DAY OF  
6 AUGUST, 2005.

7 "SIGNED JUROR NO. 10,  
8 FOREPERSON.

9 "COUNT 10.

10 "WE, THE JURY IN THE  
11 ABOVE-ENTITLED ACTION, FIND THE  
12 DEFENDANT, CONDALEE MORRIS, GUILTY OF  
13 THE CRIME OF ATTEMPTED FIRST DEGREE  
14 ROBBERY OF DENISE RAYOS, IN VIOLATION  
15 OF PENAL CODE SECTION 664/211, A  
16 FELONY, AS CHARGED IN COUNT 10 OF THE  
17 INFORMATION.

18 "WE FURTHER FIND THE  
19 ALLEGATION THAT THE DEFENDANT,  
20 CONDALEE MORRIS, PERSONALLY USED A  
21 FIREARM, TO WIT, A HANDGUN, WITHIN  
22 THE MEANING OF PENAL CODE SECTION  
23 12022.53 SUBSECTION (B) TO BE TRUE.

24 "WE FURTHER FIND THE  
25 ALLEGATION THAT THE ABOVE OFFENSE WAS  
26 COMMITTED BY THE DEFENDANT WHO  
27 VOLUNTARILY ACTED IN CONCERT AND  
28 ENTERED A STRUCTURE, WITHIN THE

1 MEANING OF PENAL CODE SECTION 213

2 SUBSECTION (A) SUBSECTION (1)

3 SUBSECTION (A) TO BE TRUE.

4 "THIS 3RD DAY OF

5 AUGUST, 2005.

6 "SIGNED JUROR NO. 10,

7 FOREPERSON."

8 IS THIS YOUR VERDICT, SO SAY YOU ONE, SO  
9 SAY YOU ALL.

10  
11 (THE JURORS ANSWERED IN THE AFFIRMATIVE.)

12  
13 THE COURT: WOULD EITHER SIDE REQUEST POLLING OF  
14 THE JURORS INDIVIDUALLY?

15 MR. FISHER: YES, YOUR HONOR.

16 THE COURT: WE WILL INDICATE BY YOUR SEAT LOCATION  
17 AND DESIGNATE WHEN ASKED WHETHER THOSE ARE YOUR VERDICTS  
18 ENTIRELY. IF SO SAY YES, IF NOT, SAY NO.

19 THE CLERK: JUROR NO. 1.

20 JUROR NO. 1: YES.

21 THE CLERK: JUROR NO. 2.

22 JUROR NO. 2: YES.

23 THE CLERK: JUROR NO. 3.

24 JUROR NO. 3: YES.

25 THE CLERK: JUROR NO. 4.

26 JUROR NO. 4: YES.

27 THE CLERK: JUROR NO. 5.

28 JUROR NO. 5: YES.

## Legal Argument 2

Punishment for the robbery in count 9 and the attempted robbery in count 10 violates Pen Code section 654 and the Double Jeopardy clause of the United States Constitution

Appellant was convicted in count 9 of robbery (Mr. Heladio Rayos) and in Count 10 attempted robbery (Dennis Rayos). The court imposed consecutive sentence for each offense. It should have stayed the attempted robbery in count 10 under Penal Code section 654 because both offenses were part of a continuous transaction and ~~arising from a single incident~~ arising from single incident.

Section 654, subdivision (a) states in relevant part: "An act or omission that is punishable in different way by different provisions of law shall be punished under the ~~provisions~~ provision that provides for the longest potential term of imprisonment, but in no case shall the act or omission be punished under more than one provision." The double jeopardy clause of the federal constitution also protects against multiple punishments for the same offense (Brown v Ohio (1977) 432 US 161, 165; North Carolina v Pearce (1969) 395 US 711, 717; People v Bradley (2003)



1 111 Cal App 4<sup>th</sup> 765, 769, CR3d 166, People v Danowski

2 74 Cal App 4<sup>th</sup> 815 (88 Cal Rptr 2d 471 (1999))

3 Section 654, precludes double punishment  
4 not only for a single act but also for an  
5 indivisible course of conduct motivated by a  
6 single intent or objective (People v Latimer (1993)  
7 3 Cal 1203, 1207, 1209.) The divisibility of a  
8 course of conduct depends upon the intent  
9 and objective of the actor, and if all the  
10 offenses are incident to one objective, the  
11 defendant may be punished for any one of  
12 them but not for more than one (Id at p 1208)

13  
14 → Sentencing issues-

15 (1) Defendant, contends the imposition of  
16 separate sentence for the robbery and the  
17 attempted robbery constituted multiple  
18 punishment in violation of 654, with the  
19 gun enhancements

20  
21 For example, Section 654 precludes  
22 multiple punishment for a single act or  
23 omission, or an indivisible course of conduct  
24 (§ 654 People v Miller (1977) 18 Cal 3d 873,  
25 885, (135 Cal Rptr 654, 558 P2d 522) If, for  
26 example, a defendant suffers two convictions  
27 punishment for one of which is precluded  
28 by section 654, that section require the

2

Sentence for one conviction to be imposed, and the other imposed and then stayed (People v Miller *supra* 18 Cal 3d at p 886.)

Section 654 does not allow any multiple punishment including either concurrent or consecutive sentence (In re Wright (1967) 65 Cal 2d 650 652, 655 (56 Cal Rptr 110, 422 P2d 998.)) (the Court erred in imposing concurrent sentences for two conviction for which section 654 prohibited multiple punishment (People v Miller, *supra* 18 Cal 3d at p 886 robbery of a victim at gunpoint has been held to be an act of violence such as to preclude application of section 654 in the case of multiple conviction involving multiple victims

Court must impose the longest term, and to determine which term is longest the court must take into account applicable specific enhancement(s)

For example (People v Kramer (2002) 29 Cal 4th 720 128 CR2d 407.) In Kramer the defendant was convicted of Pen Code section 246 (seven - year maximum) and 245 (a) (four - year maximum, But with four - year run enhancement) The defendant

argued that the § 246 conviction was  
 longer and that the § 245(a) count with  
 the gun enhancement should be stayed.  
 The court ruled that the enhancement(s)  
 must be included in the calculation and  
 ordered that the § 245(a) sentence enhanced  
 for the gun use be imposed.

For example, However brandishing  
 of firearm in the presence of a police  
 officer (Pen code § 417 (C)) is subject to  
 the limitation of 654, Brandishing a  
 firearm in front of Multiple police officers  
 may only be punished once. People v  
 Hall (2002) 83 Cal 546 101 CR2d 376.

Accordingly the court must stay the  
 attempted robbery in count 10 and the gun  
 enhancements, where a trial court erroneously  
 fail to stay term subject to section 654,  
 the court must stay sentence on the  
 lesser offense while premitting execution  
 of the greater offense consistent with  
 the intent of the sentencing court."

People v Pena (1992) 7 Cal App 4th 1294 1312,  
 People v Austin (1994) 23 Cal App 4th 1396  
 1614)

~~shall~~ while the punishment for the home

invasion robbery in count 1 is (9-years with the 10-year gun enhancement.

while the punishment for the attempted home invasion robbery in count 10 is (1-year with the 3-year and 9 months gun enhancements

Accordingly this court must modify the sentence to stay imposition of the term for the attempted home invasion robbery in count 10 together with the term for the gun use enhancement(s) attached to the offense.

Appellant perfunctorily asserts in his heading that multiple punishment (as to count(s) 1, 10 violates the federal double jeopardy clause. Moreover, as to count(s) 1 and 10 that said defendant(s), Condalee Morris

personally used a firearm, a handgun, with the meaning of Penal Code section 12022.53(b)

Also current convictions arising from single Incident. Moreover if both offense contain the same elements that the other does, then the offenses are the same for the purpose of federal double jeopardy analysis,

**FILED**  
Los Angeles Superior Court

AUG 03 2005

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## SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

John A. Clarke, Executive Officer/Clerk  
By [Signature], Deputy

The People of the State of California

Plaintiff,

vs.

01- MORRIS, CONDALEE

Defendant.

CASE NUMBER

BA279836

DEPARTMENT

101

**VERDICT (Guilty)****(COUNT 1)**

We, the jury in the above-entitled action, find the Defendant, CONDALEE MORRIS, guilty of the crime of HOME INVASION ROBBERY of HELADIO RAYOS, in violation of Penal Code Section 211, a Felony, as charged in Count One of the Information and find it to be Robbery of the First Degree.

(Insert "First" or "Second")

We further find the allegation that the above offense was committed by the defendant who voluntarily acted in concert and entered a structure within the meaning of Penal Code Section 213(a)(1)(A) to be TRUE.

(Insert "TRUE" or "NOT TRUE")

We further find the allegation that the Defendant CONDALEE MORRIS personally used a firearm, to wit: a handgun, within the meaning of Penal Code Section 12022.53(b) to be

TRUE

(Insert "TRUE" or "NOT TRUE")

This 3 day of Aug. 2005,**VERDICT (GUILTY)**

1 OKAY.

2 SIR, I WANT TO TAKE YOU BACK TO MARCH FOUR,  
3 2004, AT APPROXIMATELY 1:00 IN THE MORNING.

4 WERE YOU AT 1806 WEST 42ND PLACE IN THE CITY  
5 AND COUNTY OF LOS ANGELES?

6 A. YES.

7 Q. THAT IS 2005, JUST A COUPLE WEEKS AGO,  
8 RIGHT?

9 A. YES.

10 Q. AT THAT DATE, TIME, AND LOCATION, WERE YOU  
11 ASLEEP?

12 A. YES.

13 Q. AND IS THIS A SINGLE FAMILY RESIDENCE?

14 A. YES.

15 Q. DID SOMETHING WAKE YOU UP?

16 A. YES.

17 Q. WHAT WAS THE FIRST THING THAT YOU REMEMBER  
18 THAT WOKE YOU UP?

19 A. MY WIFE.

20 Q. OKAY.. WAS SHE SAYING SOMETHING?

21 A. YES.

22 Q. BASED ON WHAT YOUR WIFE WAS SAYING, DID YOU  
23 LOOK SOMEPLACE IN THE HOUSE?

24 A. YES.

25 Q. WHERE DID YOU GO, IF ANYPLACE?

26 A. TO THE KITCHEN.

27 Q. AND DID SOMETHING HAPPEN WHILE YOU WERE IN  
28 THE KITCHEN?

1                                   HELADIO RAYOS,  
2 CALLED AS A WITNESS BY THE PEOPLE, WAS SWORN AND  
3 TESTIFIED THROUGH THE SPANISH INTERPRETER AS FOLLOWS:

4           THE CLERK: PLEASE RAISE YOUR RIGHT HAND TO BE  
5 SWORN.

6                   DO YOU SOLEMNLY STATE THAT THE TESTIMONY YOU  
7 MAY GIVE IN THE CAUSE NOW PENDING BEFORE THIS COURT,  
8 SHALL BE THE TRUTH, THE WHOLE TRUTH, AND NOTHING BUT  
9 THE TRUTH, SO HELP YOU GOD?

10          THE WITNESS: I DO.

11          THE CLERK: PLEASE TAKE THE WITNESS STAND.

12                   WOULD YOU PLEASE STATE AND SPELL YOUR FULL  
13 NAME FOR THE RECORD.

14          THE WITNESS: HELADIO RAYOS.

15          THE INTERPRETER: INTERPRETER SPELLING, YOUR  
16 HONOR?

17          THE COURT: PLEASE.

18          THE INTERPRETER: H-E-L-A-D-I-O, LAST NAME  
19 R-A-Y-O-S.

20                                   DIRECT EXAMINATION

21 BY MS. MILLER:

22           Q. MR. RAYOS, YOU UNDERSTAND ENGLISH; IS THAT  
23 CORRECT?

24           A. A LITTLE BIT.

25           Q. BEFORE YOU ANSWER THE QUESTIONS, I NEED TO  
26 MAKE SURE YOU LET ME FINISH, LET THE INTERPRETER  
27 INTERPRET COMPLETELY AND THEN RESPOND IN SPANISH SO THE  
28 INTERPRETER CAN GO AHEAD AND TELL ME WHAT YOU SAID,



**FILED** 239  
Los Angeles Superior Court

AUG 03 2005

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

John A. Clarke, Executive Officer/Clerk  
By [Signature], Deputy

The People of the State of California  
Plaintiff,

vs.

01- MORRIS, CONDALEE

Defendant.

CASE NUMBER

BA279836

DEPARTMENT

101

**VERDICT (Guilty)**  
**(COUNT 10)**

We, the jury in the above-entitled action, find the Defendant, CONDALEE MORRIS, guilty of the crime of ATTEMPTED FIRST DEGREE ROBBERY of DENISE RAYOS, in violation of Penal Code Section 664/211, a Felony, as charged in Count Ten of the Information.

We further find the allegation that the Defendant CONDALEE MORRIS personally used a firearm, to wit: a handgun, within the meaning of Penal Code Section 12022.53(b) to be

TRUE

(Insert "TRUE" or "NOT TRUE")

We further find the allegation that the above offense was committed by the defendant who voluntarily acted in concert and entered a structure within the meaning of Penal Code Section

213(a)(1)(A) to be TRUE

(Insert "TRUE" or "NOT TRUE")

This 3 day of Aug. 2005.**VERDICT (GUILTY)**



1 THE COURT: LET'S TAKE A FIVE-MINUTE RECESS.

2 (RECESS.)

3  
4 THE COURT: BACK ON THE RECORD IN PEOPLE VERSUS  
5 MORRIS. DEFENDANT IS PRESENT, COUNSEL ARE PRESENT.

6 NEXT WITNESS.

7 MS. MILLER: PEOPLE CALL DENISE RAYOS TO THE  
8 STAND.

9 THE COURT: THANK YOU. PLEASE COME FORWARD,  
10 MA'AM. AND BEFORE TAKING YOUR SEAT IF YOU WOULD, RAISE  
11 YOUR RIGHT HAND TO BE SWORN.

12  
13 DENISE RAYOS,  
14 CALLED AS A WITNESS BY THE PEOPLE, WAS SWORN AND  
15 TESTIFIED AS FOLLOWS:

16 THE CLERK: DO YOU SOLEMNLY STATE THAT THE  
17 TESTIMONY YOU MAY GIVE IN THE CAUSE NOW PENDING BEFORE  
18 THIS COURT, SHALL BE THE TRUTH, THE WHOLE TRUTH, AND  
19 NOTHING BUT THE TRUTH, SO HELP YOU GOD?

20 THE WITNESS: YES, SIR.

21 THE CLERK: PLEASE TAKE THE WITNESS STAND.

22 WOULD YOU PLEASE STATE AND SPELL YOUR FULL  
23 NAME FOR THE RECORD.

24 THE WITNESS: D-E-N-I-S-E, R-A-Y-O-S.

25 THE COURT: THANK YOU.

26 PLEASE PROCEED.

27

28

DIRECT EXAMINATION

BY MS. MILLER:

Q. MISS RAYOS, HOW OLD ARE YOU?

A. 22.

Q. I WANT TO TAKE YOU BACK TO MAY FOUR, 2005 --  
I MEAN MARCH FOUR, 2005, AT APPROXIMATELY ONE O'CLOCK  
IN THE MORNING.

WERE YOU ASLEEP IN YOUR RESIDENCE AT 1806  
WEST 42ND STREET IN THE CITY AND COUNTY OF LOS ANGELES?

A. I DON'T LIVE THERE, BUT, YES.

Q. IS IT YOUR PARENTS' RESIDENCE?

A. IT'S MY PARENTS' RESIDENCE.

Q. WERE YOU SLEEPING THERE THAT NIGHT?

A. YES.

Q. DID SOMETHING OUT OF THE ORDINARY HAPPEN  
THAT MORNING?

A. AT 1:00 IN THE MORNING.

Q. YES?

A. YES, IT DID.

Q. DID SOME INDIVIDUALS COME INTO THE HOUSE?

A. UMM, I WAS ASLEEP IN THE FRONT ROOM. THERE  
IS A DOOR THAT GOES THROUGH MY PARENTS' ROOM THAT  
CONNECTS INTO MY SISTER'S ROOM AND I HEARD MY MOTHER  
SCREAMING AND CRYING AND I HEARD MY SON CRYING.

Q. WHO IS YOUR SON?

A. AARON CARREON. HE IS THE THREE YEAR OLD. I  
HEARD HIM CRYING AND IMMEDIATELY WHEN I HEARD HER, I

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MINUTE ORDER  
SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DATE PRINTED: 08/22/05

-----  
CASE NO. BA279836

THE PEOPLE OF THE STATE OF CALIFORNIA  
VS.  
DEFENDANT 01: CONDALEE MORRIS

-----  
INFORMATION FILED ON 04/01/05.

COUNT 01: 211 PC FEL - ROBBERY.  
COUNT 02: 211 PC FEL - ROBBERY.  
COUNT 03: 487(D)(2) PC FEL - GRAND THEFT FIREARM.  
COUNT 04: 12021(C)(1) PC FEL - POSS FIREARM W/ PRIOR CONVCTN.  
COUNT 05: 12021(C)(1) PC FEL - POSS FIREARM W/ PRIOR CONVCTN.  
COUNT 06: 422 PC FEL - MAKING A CRIMINAL THREAT.  
COUNT 07: 245(A)(2) PC FEL - ASSAULT WITH FIREARM ON PERSON.  
COUNT 08: 12021(A)(1) PC FEL - POSSES FIREARM-FELON OR ADDICT.  
COUNT 09: 245(A)(2) PC FEL - ASSAULT WITH FIREARM ON PERSON.  
COUNT 10: 664-211 PC FEL - ATTEMPT ROBBERY.

ON 08/17/05 AT 900 AM IN CENTRAL DISTRICT DEPT 101

CASE CALLED FOR PROBATION AND SENTENCE HEARING

PARTIES: WILLIAM POUNDERS (JUDGE) ALBERTA P. JORDAN (CLERK)  
JEANNE IANNONE (REP) BRADLEY LIEBERMAN (DA)

DEFENDANT IS PRESENT IN COURT, AND REPRESENTED BY STEVEN F. FISHER DEPUTY  
PUBLIC DEFENDER

DEFENDANT WAIVES ARRAIGNMENT FOR JUDGMENT AND STATES THERE IS NO LEGAL CAUSE  
WHY SENTENCE SHOULD NOT BE PRONOUNCED. THE COURT ORDERED THE FOLLOWING  
JUDGMENT:

IMPRISONED IN STATE PRISON FOR A TOTAL OF 35 YEARS

AS TO THE BASE COUNT (01):

COURT ORDERS PROBATION DENIED.

SERVE 19 YEARS IN ANY STATE PRISON

COURT SELECTS THE UPPER TERM OF 9 YEARS AS TO THE BASE TERM COUNT 01.

PLUS 10 YEARS PURSUANT TO SECTION 12022.53(B)P.C.

COUNT (01): DISPOSITION: FOUND GUILTY - CONVICTED BY JURY

PAGE NO. 1

PROBATION AND SENTENCE HEARING  
HEARING DATE: 08/17/05

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CASE NO. BA279836  
DEF NO. 01

DATE PRINTED 08/22/05

DMV ABSTRACT NOT REQUIRED

NEXT SCHEDULED EVENT:  
SENTENCING

AS TO COUNT (02):

COURT ORDERS PROBATION DENIED.

SERVE 5 YEARS AND 4 MONTHS IN ANY STATE PRISON

COURT SELECTS ONE-THIRD THE MID-TERM OF 6 YEARS WHICH IS 2 YEARS.

PLUS 40 MONTHS PURSUANT TO SECTION SEE COMMENTS

COUNT TWO IS ENHANCED FOR AN ADDITIONAL 40 MONTHS (3.4 YEARS)  
PURSUANT TO PENAL CODE SECTION 12022.53(B), WHICH IS ONE-THIRD  
OF THE TEN YEARS TYPICAL FOR THIS ALLEGATION.  
THE 5.4 YEARS FOR COUNT TWO IS TO BE SERVED CONSECUTIVE TO THE  
SENTENCE IN COUNT ONE.

COUNT (02): DISPOSITION: FOUND GUILTY - CONVICTED BY JURY

DMV ABSTRACT NOT REQUIRED

NEXT SCHEDULED EVENT:  
SENTENCING

AS TO COUNT (06):

COURT ORDERS PROBATION DENIED.

SERVE 24 MONTHS IN ANY STATE PRISON

COURT SELECTS ONE-THIRD THE MID-TERM OF 24 MONTHS WHICH IS 8 MONTHS.

PLUS 16 MONTHS PURSUANT TO SECTION SEE COMMENTS

COUNT SIX IS ENHANCED FOR AN ADDITIONAL 16 MONTHS (1.4 YEARS)  
PURSUANT TO PENAL CODE SECTION 12022.5(A)(1), WHICH IS ONE-THIRD  
THE MID-TERM OF 4 YEARS.  
THE 2 YEARS FOR COUNT SIX IS TO BE SERVED CONSECUTIVE TO THE  
SENTENCE IN COUNTS ONE AND TWO.

COUNT (06): DISPOSITION: FOUND GUILTY - CONVICTED BY JURY

DMV ABSTRACT NOT REQUIRED

NEXT SCHEDULED EVENT:  
SENTENCING

AS TO COUNT (07):

PAGE NO. 2

PROBATION AND SENTENCE HEARING  
HEARING DATE: 08/17/05

248

CASE NO. BA279836  
DEF NO. 01

DATE PRINTED 08/22/05

COURT ORDERS PROBATION DENIED.

SERVE 6 YEARS IN ANY STATE PRISON

COURT SELECTS THE MID TERM OF 2 YEARS AS TO COUNT 07.

PLUS 4 YEARS PURSUANT TO SECTION SEE COMMENTS

COUNT SEVEN IS ENHANCED FOR AN ADDITIONAL 4 YEARS PURSUANT TO  
PENAL CODE SECTION 12022.5(A)(1).

THE COURT ORDERS THE SIX YEARS FOR COUNT SEVEN IMPOSED AND  
STAYED PURSUANT TO PENAL CODE SECTION 654.

COUNT (07): DISPOSITION: FOUND GUILTY - CONVICTED BY JURY

DMV ABSTRACT NOT REQUIRED

NEXT SCHEDULED EVENT:  
SENTENCING

AS TO COUNT (08):

COURT ORDERS PROBATION DENIED.

SERVE 2 YEARS IN ANY STATE PRISON

COURT SELECTS THE MID TERM OF 2 YEARS AS TO COUNT 08.

THE COURT ORDERS THE TWO YEARS FOR COUNT EIGHT IMPOSED AND  
STAYED PURSUANT TO PENAL CODE SECTION 654.

COUNT (08): DISPOSITION: FOUND GUILTY - CONVICTED BY JURY

DMV ABSTRACT NOT REQUIRED

NEXT SCHEDULED EVENT:  
SENTENCING

AS TO COUNT (09):

COURT ORDERS PROBATION DENIED.

SERVE 4 YEARS AND 4 MONTHS IN ANY STATE PRISON

COURT SELECTS ONE-THIRD THE MID-TERM OF 3 YEARS WHICH IS 1 YEARS.

PLUS 40 MONTHS PURSUANT TO SECTION SEE COMMENTS

COUNT NINE IS ENHANCED FOR AN ADDITIONAL 40 MONTHS (3.4 YEARS)  
PURSUANT TO PENAL CODE SECTION 12022.5(A)(1), WHICH IS ONE-THIRD  
OF THE TEN YEARS ALLOWED FOR THIS ALLEGATION.

THE 4.4 YEARS FOR COUNT NINE IS TO BE SERVED CONSECUTIVE TO THE  
SENTENCE IN COUNTS ONE, TWO AND SIX.

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CASE NO. BA279836  
DEF NO. 01

DATE PRINTED 08/22/05

COUNT (09): DISPOSITION: FOUND GUILTY - CONVICTED BY JURY

DMV ABSTRACT NOT REQUIRED

NEXT SCHEDULED EVENT:  
SENTENCING

AS TO COUNT (10):

COURT ORDERS PROBATION DENIED.

SERVE 4 YEARS AND 4 MONTHS IN ANY STATE PRISON

COURT SELECTS ONE-THIRD THE MID-TERM OF 3 YEARS WHICH IS 1 YEARS.

PLUS 40 MONTHS PURSUANT TO SECTION SEE COMMENTS

DEFENDANT GIVEN TOTAL CREDIT FOR 192 DAYS IN CUSTODY 167 DAYS ACTUAL CUSTODY  
AND 25 DAYS GOOD TIME/WORK TIME

PLUS \$20.00 COURT SECURITY ASSESSMENT (PURSUANT TO 1465.8(A)(1) P.C.)

TOTAL DUE: \$20.00

IN ADDITION:

-MAKE RESTITUTION TO THE VICTIM, KATHERINE RAYOS, PURSUANT TO  
PENAL CODE SECTION 1203.04 IN THE AMOUNT OF \$3,400.00.

-THE DEFENDANT IS TO PAY A RESTITUTION FINE PURSUANT TO SECTION  
1202.4(B) PENAL CODE IN THE AMOUNT OF \$6,600.00.

-DEFENDANT IS TO PAY A PAROLE RESTITUTION FINE, PURSUANT TO PENAL  
CODE SECTION 1202.45, IN THE AMOUNT OF \$6,600.00.

SAID FINE IS STAYED AND THE STAY IS TO BECOME PERMANENT UPON  
SUCCESSFUL COMPLETION OF PAROLE.

-THE COURT ADVISES THE DEFENDANT OF APPEAL RIGHTS.

-THE COURT ORDERS THAT THE DEFENDANT PROVIDE TWO SPECIMENS OF  
BLOOD, A SALIVA SAMPLE, RIGHT THUMBPRINT, AND A FULL PALM PRINT  
IMPRESSION OF EACH HAND FOR LAW ENFORCEMENT IDENTIFICATION  
ANALYSIS.

COUNT TEN IS ENHANCED FOR AN ADDITIONAL 40 MONTHS (3.4 YEARS)  
PURSUANT TO PENAL CODE SECTION 12022.53(B), WHICH IS ONE-THIRD  
OF THE TEN YEARS TYPICAL FOR THIS ALLEGATION.  
THE 4.4 YEARS FOR COUNT TEN IS TO BE SERVED CONSECUTIVE TO THE  
SENTENCE IN COUNTS ONE, TWO, SIX AND NINE.

THE DEFENDANT IS REMANDED TO STATE PRISON, FORTHWITH.

1 PRESENT. CONTINUING THEN WITH THE INSTRUCTIONS, THE TOPIC  
2 NOW BEING THE CRIMES CHARGED.

3 (READING:)

4 THE DEFENDANT IS  
5 ACCUSED IN COUNTS 1 AND 2 OF HAVING  
6 COMMITTED THE CRIME OF ROBBERY, A  
7 VIOLATION OF SECTION 211 OF THE PENAL  
8 CODE.

9 EVERY PERSON WHO  
10 TAKES PERSONAL PROPERTY IN THE  
11 POSSESSION OF ANOTHER AGAINST THE  
12 WILL AND FROM THE PERSON OR IMMEDIATE  
13 PRESENCE OF THAT PERSON ACCOMPLISHED  
14 BY MEANS OF FORCE OR FEAR AND WITH  
15 THE SPECIFIC INTENT PERMANENTLY TO  
16 DEPRIVE THAT PERSON OF THE PROPERTY  
17 IS GUILTY OF THE CRIME OF ROBBERY, IN  
18 VIOLATION OF PENAL CODE SECTION 211.

19 THE WORDS "TAKES" OR  
20 "TAKING" REQUIRE PROOF OF:

21 ONE, TAKING  
22 POSSESSION OF THE PERSONAL PROPERTY;  
23 AND, TWO, CARRYING IT  
24 AWAY FOR SOME DISTANCE SLIGHT OR  
25 OTHERWISE.

26 "IMMEDIATE PRESENCE"  
27 MEANS AN AREA WITHIN THE ALLEGED  
28 VICTIM'S REACH, OBSERVATION OR

1 CONTROL SO THAT HE OR SHE COULD, IF  
2 NOT OVERCOME BY VIOLENCE OR PREVENTED  
3 BY FEAR, RETAIN POSSESSION OF THE  
4 SUBJECT PROPERTY.

5 "AGAINST THE WILL"  
6 MEANS WITHOUT CONSENT.

7 IN ORDER TO PROVE  
8 THIS CRIME, EACH OF THE FOLLOWING  
9 ELEMENTS MUST BE PROVED:

10 ONE, A PERSON HAD  
11 POSSESSION OF PROPERTY OF SOME VALUE,  
12 HOWEVER SLIGHT;

13 TWO, THE PROPERTY WAS  
14 TAKEN FROM THAT PERSON OR FROM HIS OR  
15 HER IMMEDIATE PRESENCE;

16 THREE, THE PROPERTY  
17 WAS TAKEN AGAINST THE WILL OF THAT  
18 PERSON;

19 FOUR, THE TAKING WAS  
20 ACCOMPLISHED EITHER BY FORCE OR FEAR;

21 AND, FIVE, THE  
22 PROPERTY WAS TAKEN WITH THE SPECIFIC  
23 INTENT PERMANENTLY TO DEPRIVE THAT  
24 PERSON OF THE PROPERTY.

25 FOR THE PURPOSES OF  
26 DETERMINING WHETHER A PERSON IS  
27 GUILTY AS AN AIDER AND ABETTOR TO  
28 ROBBERY, THE COMMISSION OF THE CRIME



1 OF ROBBERY IS NOT CONFINED TO A FIXED  
2 PLACE OR A LIMITED PERIOD OF TIME AND  
3 CONTINUES SO LONG AS THE STOLEN  
4 PROPERTY IS BEING CARRIED AWAY TO A  
5 PLACE OF TEMPORARY SAFETY.

6 THE ELEMENT OF FEAR  
7 IN THE CRIME OF ROBBERY MAY BE  
8 EITHER:

9 ONE, THE FEAR OF AN  
10 UNLAWFUL INJURY TO THE PERSON OR  
11 PROPERTY OF THE PERSON ROBBED OR TO  
12 ANY OF HIS OR HER RELATIVES OR FAMILY  
13 MEMBERS;

14 OR, TWO, THE FEAR OF  
15 AN IMMEDIATE AND UNLAWFUL INJURY TO  
16 THE PERSON OR PROPERTY OF ANYONE IN  
17 THE COMPANY OF THE PERSON ROBBED AT  
18 THE TIME OF THE ROBBERY.

19 THERE ARE TWO DEGREES  
20 OF ROBBERY. EVERY ROBBERY OF ANY  
21 PERSON WHICH IS PERPETRATED IN AN  
22 INHABITED DWELLING HOUSE IS ROBBERY  
23 OF THE FIRST DEGREE. ALL OTHER  
24 ROBBERIES ARE OF THE SECOND DEGREE.

25 IF YOU FIND THE  
26 DEFENDANT GUILTY OF ROBBERY OR  
27 ATTEMPTED ROBBERY, YOU MUST DETERMINE  
28 THE DEGREE THEREOF AND STATE THAT

1 DEGREE IN YOUR VERDICT. IF YOU HAVE  
2 A REASONABLE DOUBT WHETHER THE  
3 ROBBERY IS OF THE FIRST OR SECOND  
4 DEGREE, YOU MUST FIND IT TO BE OF THE  
5 SECOND DEGREE.

6 EVERY PERSON WHO  
7 VOLUNTARILY ACTING IN CONCERT WITH  
8 TWO OR MORE OTHER PERSONS COMMITS  
9 ROBBERY WITHIN AN INHABITED DWELLING  
10 HOUSE IS GUILTY OF VIOLATING PENAL  
11 CODE SECTION 213(A)(1)(A), A CRIME.

12 THE TERM "ACTING IN  
13 CONCERT" MEANS TWO OR MORE PERSONS  
14 ACTING TOGETHER IN A GROUP CRIME, AND  
15 INCLUDES NOT ONLY THOSE WHO  
16 PERSONALLY ENGAGE IN THE ACT OR ACTS  
17 CONSTITUTING THE CRIME BUT ALSO THOSE  
18 WHO AID AND ABET A PERSON IN  
19 ACCOMPLISHING IT; HOWEVER, WHEN THE  
20 CRIME CHARGED IS ROBBERY IN CONCERT,  
21 THERE MUST BE AT LEAST THREE PERSONS,  
22 INCLUDING ANY DEFENDANT ACTING IN  
23 CONCERT.

24 TO ESTABLISH THAT A  
25 DEFENDANT VOLUNTARILY ACTED IN  
26 CONCERT WITH OTHER PERSONS, IT IS NOT  
27 NECESSARY TO PROVE THAT THERE WAS ANY  
28 PREARRANGED PLANNING OR SCHEME.

1 I'M SORRY.

2 PREARRANGEMENT,

3 PLANNING OR SCHEME.

4 IN ORDER TO PROVE

5 THIS CRIME, EACH OF THE FOLLOWING

6 ELEMENTS MUST BE PROVED:

7 ONE, A ROBBERY WAS

8 COMMITTED;

9 TWO, THE ROBBERY WAS

10 COMMITTED WITHIN AN INHABITED

11 DWELLING HOUSE;

12 AND, THREE, THE

13 DEFENDANT VOLUNTARILY ACTED IN

14 CONCERT WITH TWO OR MORE OTHER

15 PERSONS IN COMMITTING THE ROBBERY.

16 AN INHABITED DWELLING

17 HOUSE IS A STRUCTURE WHICH IS

18 CURRENTLY USED AS A DWELLING, WHETHER

19 OCCUPIED OR NOT. IT IS INHABITED

20 ALTHOUGH THE OCCUPANTS ARE

21 TEMPORARILY ABSENT.

22 DEFENDANT IS ACCUSED

23 IN COUNT 10 OF HAVING COMMITTED THE

24 CRIME OF ATTEMPTED FIRST DEGREE

25 ROBBERY. AN ATTEMPT TO COMMIT A

26 CRIME CONSISTS OF TWO ELEMENTS,

27 NAMELY A SPECIFIC INTENT TO COMMIT

28 THE CRIME AND A DIRECT, BUT

1           INEFFECTUAL, ACT DONE TOWARD ITS  
2           COMMISSION.

3                         IN DETERMINING  
4           WHETHER THIS ACT WAS DONE, IT IS  
5           NECESSARY TO DISTINGUISH BETWEEN MERE  
6           PREPARATION ON THE ONE HAND AND THE  
7           ACTUAL COMMENCEMENT OF THE DOING OF  
8           THE CRIMINAL DEED ON THE OTHER.

9                         MERE PREPARATION,  
10          WHICH MAY CONSIST OF PLANNING THE  
11          OFFENSE, OF DEVISING, OBTAINING OR  
12          ARRANGING THE MEANS FOR ITS  
13          COMMISSION IS NOT SUFFICIENT TO  
14          CONSTITUTE AN ATTEMPT; HOWEVER, ACTS  
15          OF A PERSON WHO INTENDS TO COMMIT A  
16          CRIME WILL CONSTITUTE AN ATTEMPT  
17          WHERE THOSE ACTS CLEARLY INDICATE A  
18          CERTAIN UNAMBIGUOUS INTENT TO COMMIT  
19          THIS SPECIFIC CRIME.

20                        THOSE -- THESE ACTS  
21          MUST BE AN IMMEDIATE STEP IN THE  
22          PRESENT EXECUTION OF THE CRIMINAL  
23          DESIGN, THE PROGRESS OF WHICH WOULD  
24          BE COMPLETED UNLESS INTERRUPTED BY  
25          SOME CIRCUMSTANCE NOT INTENDED IN THE  
26          ORIGINAL DESIGN.

27                        THE DEFENDANT IS  
28          ACCUSED IN COUNT 3 OF HAVING

1 ANY VERDICT OR FINDING IS NOT YOURS, YOU WOULD INDICATE  
2 THAT BY SAYING NO; IF THEY ARE ALL YOUR VERDICTS, YOU  
3 WOULD SAY YES WHEN POLLED.

4 THE CLERK: "TITLE OF COURT  
5 AND CAUSE.

6 "COUNT 1.

7 "WE, THE JURY IN THE  
8 ABOVE-ENTITLED ACTION, FIND THE  
9 DEFENDANT, CONDALEE MORRIS, GUILTY OF  
10 THE CRIME OF HOME INVASION ROBBERY OF  
11 HELADIO RAYOS, IN VIOLATION OF PENAL  
12 CODE SECTION 211, A FELONY, AS  
13 CHARGED IN COUNT 1 OF THE  
14 INFORMATION, AND FIND IT TO BE  
15 ROBBERY OF THE FIRST DEGREE.

16 "WE FURTHER FIND THE  
17 ALLEGATION THAT THE ABOVE OFFENSE WAS  
18 COMMITTED BY THE DEFENDANT WHO  
19 VOLUNTARILY ACTED IN CONCERT AND  
20 ENTERED A STRUCTURE, WITHIN THE  
21 MEANING OF PENAL CODE SECTION 213  
22 SUBSECTION (A) SUBSECTION (1)  
23 SUBSECTION (A) TO BE TRUE.

24 "WE FURTHER FIND THE  
25 ALLEGATION THAT THE DEFENDANT,  
26 CONDALEE MORRIS, PERSONALLY USED A  
27 FIREARM, TO WIT, A HANDGUN, WITHIN  
28 THE MEANING OF PENAL CODE SECTION

1 12022.53 SUBSECTION (B) TO BE TRUE.

2 "THIS 3RD DAY OF  
3 AUGUST, 2005.

4 "SIGNED JUROR NO. 10,  
5 FOREPERSON.

6 "COUNT 2.

7 "WE, THE JURY IN THE  
8 ABOVE-ENTITLED ACTION, FIND THE  
9 DEFENDANT, CONDALEE MORRIS, GUILTY OF  
10 THE CRIME OF HOME INVASION ROBBERY OF  
11 KATHERINE RAYOS, IN VIOLATION OF  
12 PENAL CODE SECTION 211, A FELONY, AS  
13 CHARGED IN COUNT 2 OF THE  
14 INFORMATION, AND FIND IT TO BE  
15 ROBBERY OF THE FIRST DEGREE.

16 "WE FURTHER FIND THE  
17 ALLEGATION THAT THE ABOVE OFFENSE WAS  
18 COMMITTED BY THE DEFENDANT WHO  
19 VOLUNTARILY ACTED IN CONCERT AND  
20 ENTERED A STRUCTURE, WITHIN THE  
21 MEANING OF PENAL CODE SECTION 213  
22 SUBSECTION (A) SUBSECTION (1)  
23 SUBSECTION (A) TO BE TRUE.

24 "WE FURTHER FIND THE  
25 ALLEGATION THAT THE DEFENDANT,  
26 CONDALEE MORRIS, PERSONALLY USED A  
27 FIREARM, TO WIT, A HANDGUN, WITHIN  
28 THE MEANING OF PENAL CODE SECTION

1 PENAL CODE SECTION 1203.06 SUBSECTION  
2 (A) SUBSECTION (1) AND 12022.5  
3 SUBSECTION (A) SUBSECTION (1) TO BE  
4 TRUE.

5 "THIS 3RD DAY OF  
6 AUGUST, 2005.

7 "SIGNED JUROR NO. 10,  
8 FOREPERSON.

9 "COUNT 10.

10 "WE, THE JURY IN THE  
11 ABOVE-ENTITLED ACTION, FIND THE  
12 DEFENDANT, CONDALEE MORRIS, GUILTY OF  
13 THE CRIME OF ATTEMPTED FIRST DEGREE  
14 ROBBERY OF DENISE RAYOS, IN VIOLATION  
15 OF PENAL CODE SECTION 664/211, A  
16 FELONY, AS CHARGED IN COUNT 10 OF THE  
17 INFORMATION.

18 "WE FURTHER FIND THE  
19 ALLEGATION THAT THE DEFENDANT,  
20 CONDALEE MORRIS, PERSONALLY USED A  
21 FIREARM, TO WIT, A HANDGUN, WITHIN  
22 THE MEANING OF PENAL CODE SECTION  
23 12022.53 SUBSECTION (B) TO BE TRUE.

24 "WE FURTHER FIND THE  
25 ALLEGATION THAT THE ABOVE OFFENSE WAS  
26 COMMITTED BY THE DEFENDANT WHO  
27 VOLUNTARILY ACTED IN CONCERT AND  
28 ENTERED A STRUCTURE, WITHIN THE

1 MEANING OF PENAL CODE SECTION 213

2 SUBSECTION (A) SUBSECTION (1)

3 SUBSECTION (A) TO BE TRUE.

4 "THIS 3RD DAY OF  
5 AUGUST, 2005.

6 "SIGNED JUROR NO. 10,  
7 FOREPERSON."

8 IS THIS YOUR VERDICT, SO SAY YOU ONE, SO  
9 SAY YOU ALL.

10  
11 (THE JURORS ANSWERED IN THE AFFIRMATIVE.)  
12

13 THE COURT: WOULD EITHER SIDE REQUEST POLLING OF  
14 THE JURORS INDIVIDUALLY?

15 MR. FISHER: YES, YOUR HONOR.

16 THE COURT: WE WILL INDICATE BY YOUR SEAT LOCATION  
17 AND DESIGNATE WHEN ASKED WHETHER THOSE ARE YOUR VERDICTS  
18 ENTIRELY. IF SO SAY YES, IF NOT, SAY NO.

19 THE CLERK: JUROR NO. 1.

20 JUROR NO. 1: YES.

21 THE CLERK: JUROR NO. 2.

22 JUROR NO. 2: YES.

23 THE CLERK: JUROR NO. 3.

24 JUROR NO. 3: YES.

25 THE CLERK: JUROR NO. 4.

26 JUROR NO. 4: YES.

27 THE CLERK: JUROR NO. 5.

28 JUROR NO. 5: YES.



## Argument 3

There was ample support for use of a properly conducted show-up procedure in Count 1 (Mr Heladio Rayos And (2) ~~there~~<sup>was</sup> nothing in conduct of showup procedure to support exclusion of Both the eyewitness Testimony or the expert eyewitness testimony

## Supporting facts

Petitioner alleges that the people of the state of California never proved or determined whether the show-up procedure was impermissibly suggestive in Count 1 of (Mr Heladio Rayos) to support his Identification of (Mr Morris) as the Robbery suspect or the perpetrator

1) LAPD's practice and procedure Manual Section 203.50 Identification of Suspects in the field. (see Exhibit 2.2)

2) Addition, It's very easy to argue that this "non exigent" show-up procedure was not a product of any independent recollection of the victim (Mr Heladio Rayos in Count 1, where the officer who conduct this field confrontation told the victim (Mr Heladio) that they had the suspect that Burglarized there house, Before (Mr Heladio went to make his Identification

(Rt 374 Line 20-23) (Ct 86 Line 1-6) (Exhibits 12-13)

3) The "non argent" circumstance that it didn't make it unreasonable for the victims to be transported to the suspect. What did LAPD's officer do after taking Mr Morris into custody?

g) We conducted a follow-up to the house, to the location (Rt 642 Line 11-27)

b) well, what happened was the Defendant was pretty far down the street, so we didn't have to walk them all the way down there, The defendant was brought oh, Probably Halfway Between 1806 and where he was detained, so He was still away from the Location, And each of the victims were put in a police car and taken down to where they were. They viewed and then they were driven back (Rt 648 Line 21-28) (Exhibits 23-24)

4) When a ~~suspect~~ suspect Identified or when a suspect not Identified in a "Show-up" the teletype notification Card shall be filled out (see exhibit 22)

5) None of these witnesses that called 911 or Reported, this Robbery to the police

1 gave a description of the suspects (see exhibits"  
 2 26B) (Transcript of audio taped (Letter 3, 2, 1)  
 3 (Clerks transcript page 1 of 1) (see exhibits 1-4)

4  
 5 6) The cross racial or Ethnic nature of  
 6 Identification a criminal Defense Lawyer or a  
 7 Lawyer have a little trouble with this because  
 8 you know people will Misinterpret what they  
 9 say. But you ever heard the expression, "They  
 10 all look alike?" we had a perfect example of  
 11 this in trial.

12  
 13 None of these witnesses could Distinguish the  
 14 faces, other than Height, weight, The perpetrators  
 15 other than Height and weight.

16  
 17 There was a skinny one? Mr Morris  
 18 apparently was that one as well. If you get  
 19 down to it. He was just like five - seven,  
 20 five - eight; The ski mask one; the other  
 21 person, we had some testimony He looked  
 22 younger. (Rt 327 Line 13-20) (Rt 328 Line 25-28)  
 23 (Rt 329 Line 1) (Ct 105 Line 9-11) (Ct 106 Line 13-18)  
 24 (Ct 107 Line 1-32) (see exhibits 5-10)

25 But couldn't Distinguish other than  
 26 age, weight and Height also (Mr Heladio  
 27 Ramos) Testified, Yeah, I Recognize him  
 28 because He was the taller of them all

(Pt 361 Line 16-21) (see exhibit 11)

IS He Identifying (Mr Morris by his face or is He Identifying him because of his Height, weight or what ever?

Because we now Basically that all of them look the same, with the exception of state of physical Characteristic Height weight whatever, except the shorter one, all right?

Now of course we know one of them had a ski mask But that one, that had the ski mask was Basically the same Physical Description as the others.

It's very easy to argue that this "non exigent" show-up procedure was not a product of any independent recollection of the Victim (Mr Heladio Rayos) in Count 1 where the officer who conduct this field confrontation told the victim (Mr Heladio) that they had the suspect that Bugnized there house. Before (Mr Heladio) went to make his Identification (Pt 374 Line 20-23 (Ct 86 Line 1-6) (exhibit 12-13)

That's Pre suggestive that they have the Person that did it, tainting any kind of

1 objectivity or creating Bias from the witnesses  
2 ( Mr Heladio ) Before Identification

3  
4 The Counsel asked him before, He made  
5 the Identification, were you glad that they  
6 had gotten one of them? And He said well  
7 Yeah, Remember what we went through  
8 That? And is it fair to say you were real  
9 upset ~~from~~ Traumatized because this was  
10 probably one of the most Dramatic thing  
11 that ever happened to you, Correct, Yes  
12 (Rt 361 Line 27-28) (Rt 362 Line 1) (Rt 374 Line 28)  
13 (Rt 375 line 1-6) (see exhibits 14-12-15-16.)

14  
15 Now keep in mind He's the first one  
16 that made the "non exigent Identification".  
17 He was Driving up in a patrol car, all right?  
18 And you have an African American suspect  
19 there the only one, there, okay and handcuffed  
20, He said surround by He doesn't even know  
21 how many police officers, But uniformed  
22 LAPD officers, And then they're parked  
23 there; they shining there light on Mr  
24 Morris (Rt 374 Line 1-5) (Rt 374 Line 24-27).  
25 (Rt 375 Line 7-11) (Rt 649 Line 3-5) (see exhibit  
26 15-12-19 )

27 And my Counsel asked him how long  
28 did it take you to make this Identification



1 of Mr Morris? Couple of Minutes (Rt 375-15-17)  
2 (see Exhibit 15)

3 And we ~~are~~ already Discussed at the  
4 beginning the Circumstance under which  
5 (Mr Heladio Rayos) made his Identification  
6 A person that's been wrong like this would  
7 have a disposition to point out this person.  
8

9 Now, that (Mr Heladio Rayos) was told  
10 by the officials that they have the person,  
11 Mr Lieberman got a police officer on the  
12 witness stand And said, "Did you read an  
13 admonition to those witnesses?" But that's  
14 not what happened with (Mr Heladio Rayos) okay?  
15 Keep in mind we had a police officer come  
16 in trial that wasn't even present at the  
17 Identification or in the car. He was in the  
18 back ground and He's trying to say that  
19 the witness (Mr Heladio Rayos) came  
20 back and said Yeah I Positively Identified  
21 Mr Morris. (Rt 649 Line ~~16-28~~ 16-28) (Rt 650 Line  
22 1-10) (see Exhibits 19-18)  
23

24 And Counsel asked him, were you taking  
25 notes. When you were interviewing these  
26 witnesses, Did you take any notes? Yes I  
27 did. Did you bring those notes to Court  
28 today? No I didn't. How long after this  
e

1 incident, where are these notes? I either discarded  
2 them or I may have them somewhere,  
3 You know you're supposed to keep the notes,  
4 Don't you? At the time I didn't know, I  
5 later found out that it probably would  
6 have been a good idea to keep them.

7 How long after the interview was the  
8 police report prepared by your partner.

9 When you say they made these statements?

10 Let's see, probably we got the call approximately  
11 approximately 1:05 I would say that where  
12 we started writing, actually writing the  
13 report was approximately 5:00 to maybe 6:00  
14 in the morning, some where around there.

15 So how many hours after the statements  
16 was made regarding the Identification,  
17 that part of the report written? well,

18 That would be around 500 to 600 hours,

19 And you remember you had some notes?

20 Yes. And do you know what you did with  
21 those notes again? I don't remember  
22 what I did with them (Rt 660 Line 21-28  
23 (Rt 661 Line 1-23) (see exhibits 20-21)

24  
25 This argument was offered regarding  
26 the exclusion "Eyewitness testimony  
27 of both. The expert witness and  
28 the Identification testimony by (Mr Helado)

1 the victim of the home invasion robbery

2  
3 The LAPD officers held a suggestive  
4 "non exigent show-up procedure in Count 1  
5 I'm going to use the LAPD's practice  
6 and procedure Manual (see section 203.50  
7 Identification of suspect in the field. To  
8 prove my point (see exhibit 22)

9  
10 Like I said it was very easy to  
11 argue that this non exigent show-up procedure  
12 in Count 1, was not a product of any  
13 independent recollection of (Mr Heladio).

14 Because the officer that conducted this  
15 field confrontation told (Mr Heladio Rayos) that  
16 they had the suspect that robbed them.  
17 Counsel asked him did the police officer tell  
18 you that they had the suspect that Burglarized  
19 your house? And he said yes. This happen  
20 before he what to make his Identification  
21 (Rt 374 line 20-23) (et 86 line 1-6) (exhibits 13-  
22 12)

23 I'm going to show you where  
24 the LAPD officer violated there own practice  
25 and procedure Manual (see Exhibit 22)

26 At 203.50 Identification of the suspect  
27 in the field.

28 And officer who intends to conduct



1 a field confrontation shall inform the  
2 victim that (1) The person is in temporary  
3 custody as a possible suspect "only".

4 And (2) The fact the person is in police  
5 custody does not indicate his "guilt"  
6 or "innocence." And (3) The purpose of  
7 the confrontation is either to "eliminate"  
8 or "identify" the person as the perpetrator.

9  
10 You recall, 1) where officer who intends  
11 to conduct a field confrontation shall inform  
12 the victim that the person is in temporary  
13 custody as a possible suspect "only".

14 But in Mr Morris field show-up, The officer  
15 who was conducting this field confrontation  
16 told (Mr Heladio Rarios) that they had the  
17 suspect who Robbed them. Counsel ask

18 (Mr Heladio) did the police tell you that they  
19 had the suspect that Burglarized your house?

20 And he said yes He was told this before.

21 he what to make his Identification of Mr Morris

22 And (2) The fact the person is in police

23 custody does not indicate his "guilt" or  
24 innocence. The police made it clear to

25 (Mr Heladio) that Mr Morris was guilty of

26 the crime. And (3) The purpose of the

27 confrontation is either to "eliminate" or "identify"

28 the person as the perpetrator. Before the

1 Confrontation the police told (Mr Heladio) that  
2 Mr Morris was the suspect that Burglarized  
3 there house. So because of what the  
4 LAPD officer told (Mr Heladio), Mr Morris  
5 was already Identify before the field  
6 Confrontation.

7  
8 The trial Court should have suppressed  
9 the eye witnesses testimony Apparently on  
10 the Basis that the show-up procedure  
11 was improper; As Non Exigent circumstance  
12 required in this case for Identification in the  
13 field.

14 Again it was very easy to argue that  
15 the Identification of suspect in the field. A  
16 suspect may be transported to a victim  
17 or witness for the purpose of Identification  
18 when; (see exhibit 22) At (203.50)

19  
20 1.) An officer is conducting a preliminary investi-  
21 gation and a field confrontation is necessary  
22 to determine if the suspect is the perpetrator  
23 of the offense; and (2) Probable Cause exists  
24 to arrest the suspect for the offense; OR  
25 (3) Exigent Circumstances exist that make it  
26 unreasonable for the victim or witness to be  
27 transported to the suspect; or (4) The officer  
28 obtain the free and voluntary consent of the

1 suspect.

2  
3  
4 1) An officer is conducting a preliminary investi-  
5 gation and a field confrontation is necessary  
6 to determine if the suspect is the perpetrator of  
7 the offense. The officer that conduct a preliminary  
8 investigation and a field confrontation made it  
9 clear that Mr Morris was the suspect. When  
10 Counsel asked (Mr Heladio) did the police officer  
11 tell you that they had the suspect that burglarized  
12 your house? And he said yes that's happen before  
13 he made his Identification (C186-1-6) (R1374-20-23)  
14 (exhibits 12-13)

15 And (2) Probable Cause exists to arrest  
16 the suspect for the offense. As you could  
17 see the police made it clear that it was  
18 probable cause exists to arrest Mr Morris  
19 of the offense.

20  
21 And (3) Exigent Circumstance ~~was~~ exist that  
22 make it unreasonable for the victim or  
23 ~~the witness~~ witness to be transported  
24 to the suspect, well if this County,

25 Well, what happened was the Defendant  
26 was pretty far down the street, so  
27 we didn't have to walk them all the  
28 way down there. The defendant was brought,  
" "

1 OH, Probably Halfway Between 1806 and where He  
 2 was detained, so He was still away from the Location,  
 3 and each of the victims were put in a police car  
 4 and taken down to where they were. They viewed  
 5 and then they were driven back (648 Line 21-28)  
 6 (642 line 11-27) Exhibits (23-24)

7 And (4) The officer obtains the free and  
 8 voluntary consent of the suspect, And the  
 9 officer how obtain Mr Morris did not  
 10 voluntary get consent from Mr Morris to  
 11 be place in a field confrontation, being without  
 12 personally present with counsel

13  
 14 The trial court should have suppressed the  
 15 eyewitness testimony apparently on the basis  
 16 that the show up procedure was improper  
 17 insofar as no exigent circumstance required  
 18 I'll Booth, to be Handcuffed and taken  
 19 back to the bank 669 F2d at 1239

20  
 21 And show up procedure can be a  
 22 salutary police practice although a show-up  
 23 procedure is more suggestive than a lineup  
 24 because the suspect is the only person  
 25 presented for Identification, Returning a  
 26 suspect to the scene of a crime shortly  
 27 after it's commission to determine whether  
 28 circumstances Tentatively him as the perpetrator

Permits the witness to make the determination while the image of the perpetrator is still fresh in his mind, and may lead to the expedite release of innocent suspect (citing *US v Williams* 626 F2d 697 703 (9<sup>th</sup> Cir cert denied, 499 US 1020, 101 Sct 586, 66 LEd 2d 482 (1980)) (*U.S. v Coades* 549 F2d 1303, 1305 (9<sup>th</sup> Cir 1977))

The notes in Question related to the witnesses statement, and identification. We already know that they violated the police procedure once. But they did it again by throwing away the notes in question

Accordingly the court must determine whether in the totality of circumstances that the show up procedure was so impermissibly suggestive as to give rise to a very substantial likelihood of irreparable misidentification" 669 F2d at 1239) quoting *Simmons v United States* 391 US 377, 384 88 Sct, 967, 971, 19 LEd 2d 1247 (1968) and *United States v Field* 628 F2d 867 865 9<sup>th</sup> Cir 1980). Accordingly the court should order or Remand, the court to suppressed the eye witness testimony and the Government Filed this appeal pursuant to 18 USC section 3731. I contend the



1. Court order should be upheld.

2.

3. Condalee Morris Advances three principal  
4. argument (5)

5. First, Condalee Morris contends that his

6. display in handcuffs and taking back to the  
7. Crime scene or ~~mark~~ in handcuffs halfway.

8. And place in a "non exigent show-up was "improper"

9.

10. Second, He contends that the police officer

11. told the victim (Mr Heladio Rayos) that

12. they had the suspect that Burglarized your

13. house? Before we went to make the

14. Identification and that "PRC suggestive"

15.

16. Third, He contends that the written

17. statements about the identification was

18. throw away and that was "inherently

19. Suggestive"

20.

21.

22.

23.

24.

25.

~~ABOUT THE IDENTIFICATION WAS THROWN AWAY AND THAT WAS~~  
~~IDENTIFICATION SPECIFIC~~

PETITIONER CONTENDS THAT REVIEWAL IS REQUIRED  
 AND THERE WAS REASONABLE PROBABILITY THAT RESULT OF  
 TRIAL WOULD HAVE BEEN DIFFERENT SINCE THE SHOWUP  
 PROCEDURE IDENTIFICATION WAS PIVOTAL EVIDENCE IN  
 THE CASE, NEVERTHELESS CONDALEE MORRIS COUNSEL DID  
 NOT MOVE TO SUPPRESS ANY EVIDENCE REGARDING THE  
 SHOWUP IDENTIFICATION PROCEDURE, NOR DID HE ARGUE  
 THAT ANY IN-COURT IDENTIFICATION THAT (MR. RAJOS)  
 MIGHT MAKE WOULD NECESSARILY BE TAINTED BY  
 THE SUGGESTIVE OF SHOWUP PROCEDURE. THE  
 DEFENDANT WAS DENIED DUE PROCESS OF LAW  
 GUARANTEED BY THE FIFTH AND FOURTEENTH AMENDMENT  
 OF THE UNITED STATE CONSTITUTION AND ARTICLE 1 §15  
 OF THE CALIFORNIA CONSTITUTION

### POINTS AND AUTHORITIES

SHOWUP PROCEDURE ARE NOT OBJECTIONABLE UNLESS  
 PROCEDURE IS SO IMPERMISSIBLY SUGGESTIVE AS TO GIVE  
 RISE TO VERY SUBSTANTIAL LIKELIHOOD OF IRREPARABLE MIS-  
 IDENTIFICATION (UNITED STATES V. BOOTH 669 F2d AT 1239)  
 CRIMINAL LAW 339.8(5)

CHALLENGES THE IDENTIFICATION PROCEDURES MUST BE  
 RESOLVED ON A CASE TO CASE BASIS (CRIMINAL LAW 339.6)  
 MANSON V. BRAITHWAITE 432 U.S. 98, 114; 97 S.Ct 2243;

2253; 53 Led 2d 104 (1977) NEIL V. BIGGER 409 VS  
 188, 199, 220; 93 Sct 375, 382, 383; 34 Led 2d 401  
 (1972) SIMMON V UNITED STATES 390 VS 377, 384; 88 Sct  
 967, 971; 19 Led 2d 1247 (1968)

LATER DESCRIPTIONS BY EYE WITNESS OF ROBBERY  
 SUSPECT WERE DETAILED AND ACCURATE COULD NOT BE  
 USED TO SHOW IMPERMISSIBLE SUGGESTIVENESS IN THE SHOW-  
 UP SINCE ONE CENTRAL AND LEGITIMATE PURPOSE OF  
 SHOWUP PROCEDURE IS TO SHARPEN RECOLLECTION OF EYE-  
 WITNESS AND ENABLE THEM TO FOCUS ATTENTION ON  
 DETAILS THEY MAY OTHERWISE OVERLOOK (CRIMINAL LAW  
 399.8(5)) WARDEN V. HAYDEN 387 VS 294; 87 Sct 1642  
 18 Led 2d 782 (1976)

EVIDENCE INDICATED THAT THERE HAD BEEN AMPLE SUPPORT  
 FOR USE OF PROPER CONDUCTED SHOWUP PROCEDURE IMMED-  
 IATELY AFTER THE ROBBERY (CRIMINAL LAW 339.11(5))

WHILE IT IS BETTER PRACTICE NOT TO REFER TO SUBJECT  
 OF SHOWUP AS A "SUSPECT" IN VIEW OF DANGER OF  
 ADVERSE INFERENCES BEING DRAWN BY WITNESS;  
 REFERENCES BEING DRAWN BY WITNESS, REFERENCE BY  
 ITSELF IS NOT AN IMPERMISSIBLE SUGGESTION (CRIMINAL  
 LAW 339.8(5))

USE OF HANDCUFFS OR OTHER INDICIA OF CUSTODY WILL NOT  
 INVALIDATE A SHOWUP AT LEAST WHERE PRESENTATION  
 OF SUSPECT CONSISTENT WITH PROTECTION OF OFFICERS



1 AND WITNESSES (CRIMINAL LAW 339.8(6))

2  
3 THERE WAS NOTHING IN CONDUCT OF SHOW UP TO  
4 SUPPORT EXCLUSION OF EYE WITNESS TESTIMONY AS AGENT  
5 IN CHARGE HAD GIVEN A CAREFUL AND PROPER EXPLAIN-  
6 ATION THAT NO INFERENCE WAS TO BE DRAWN FROM  
7 FACT OF CUSTODY OR USE OF HANDCUFFS. THERE ARE  
8 INDICATION IN THE RECORDS THAT OFFICERS ENCOURAGED  
9 ALTHOUGH THERE WAS A LARGE NUMBER OF OFFICERS PRESENT,  
10 THAT WAS TO BE EXPECTED AFTER RECENT OCCURRENCE  
11 OF MAJOR CRIME INVOLVING FIREARM  
12 (CRIMINAL LAW 339.8(6))

13  
14 WHERE SHOW UP PROCEDURE EMPLOYED DOES NOT  
15 GIVE RISE TO A VERY SUBSTANTIAL LIKELIHOOD OF  
16 IRREPARABLE MISIDENTIFICATION, IDENTIFICATION EVIDENCE  
17 IS FOR THE JURY TO WEIGH (CRIMINAL LAW 339.8(5))  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**EXHIBIT**



1 NOTICE TO APPELLANT:  
2

3 In the event that a request for correction is filed, counsel should deliver  
4 this copy of this transcript to the court clerk at the time of the hearing  
5 so that it may be conformed.  
6  
7  
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9  
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13

14 **CLERK'S TRANSCRIPT**  
15  
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Superior Court of California  
County of Los Angeles  
APPEAL TRANSCRIPT  
INDEX

Page 1 of 1

People of the State of California v. MORRIS, CONDALEE-1

Case number: BA279836-01

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Description	Date	Vol.	Page
EXHIBIT { # 26 B } TRANSCRIPT OF AUDIO TAPE	07/28/05	1	1
LETTER 32.1	12/01/05	1	4
CERTIFICATION	12/16/05	1	5

Exhibit

1  
2 DEFENDANT CONDALEE MORRIS CASE NUMBER BA279836

3  
4 RECORDED BY LAPD MASTER

5 DATE OCCURRED MARCH 4, 2005 DATE OF TAPING MARCH 25, 2005

6  
7 OPERATOR 1: IT'S A TRANSFER I GOT 1806 WEST 42<sup>ND</sup> PLACE,  
8 SAID SOMETHING ABOUT SOMEONE IS BREAKING  
9 INTO HER HOUSE.

10  
11 OPERATOR 2: OKAY, 1806 WEST 42<sup>ND</sup> PLACE?

12 OPERATOR 1: YEAH, I THINK SHE DROPPED THE PHONE BECAUSE,  
13 HER HUSBAND TOLD HER TO GET DOWN ON THE  
14 FLOOR AND SHE COULDN'T GET TO THE PHONE ANY  
15 MORE.

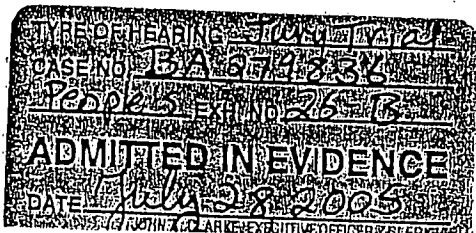
16 OPERATOR 2: OKAY WHAT'S THE CALL BACK.

17 OPERATOR 1: THE CALL BACK I'M GETTING IS IN 323-632-  
18 1008..

19  
20 OPERATOR 2: 1806 WEST 42<sup>ND</sup> PLACE?

21 OPERATOR 1: NO 1806 WEST 42<sup>ND</sup>, YEAH.

22 OPERATOR 2: OKAY, SO SHE SAID THAT SOMEONE WAS BREAKING  
23 IN AND HER HUSBAND TOLD HER TO GET ON THE  
24 GROUND.



1 OPERATOR 1:

2 SHE SAID THAT SOMEONE IS BREAKING IN I GOT  
3 THE ADDRESS, I WAS TRYING TO GET HER PHONE  
4 NUMBER AND ALL I HEARD HER SAY WAS LET ME  
5 CHECK ON MY HUSBAND, HUSBAND SAID GET DOWN  
6 ON THE GROUND,

7 OPERATOR 2:

8 OKAY.

9 OPERATOR 1:

10 AND I CAN'T GET HER BACK ON THE PHONE.

11 OPERATOR 2:

12 SOUTHWEST UNITS (INAUDIBLE) 1806 WEST 42<sup>ND</sup>  
13 PLACE 1-8-0-6 WEST 42<sup>ND</sup> PLACE. CODE 3  
14 INCIDENT 245 IT WILL BE 095.

15 HIGHWAY PATROL:

16 HI 542 HIGHWAY PATROL 4522 I HAVE A MOBILE  
17 911 TRANSFER.

18 HIGHWAY PATROL:

19 MA'AM YOU'RE ON THE LINE WITH LAPD.

20 OPERATOR:

21 911 EMERGENCY OPERATOR 542.

22 WITNESS:

23 HELLO HI I'M ON LOS ANGELES (INAUDIBLE) AND  
24 WE'RE BEING ROBBED RIGHT NOW.

25 OPERATOR:

WHAT IS THE ADDRESS?

WITNESS:

1806 WEST 42<sup>ND</sup> PLACE.

OPERATOR:

1806 WEST 42<sup>ND</sup> PLACE?

WITNESS:

YES.

OPERATOR:

IS THAT A HOUSE OR AN APARTMENT?

WITNESS:

THIS IS A HOUSE.

OPERATOR:

OKAY, I SEE YOUR PHONE NUMBER IS 323-623-  
1008.

Exhibit 3

1 WITNESS:

2 OPERATOR:

3 WITNESS:

4 OPERATOR:

6 WITNESS:

8 OPERATOR:

9 WITNESS:

10 OPERATOR:

11 WITNESS:

12 OPERATOR:

YES THAT IS MY CELL PHONE.

THAT'S YOUR CELL PHONE?

YES.

OKAY, I SEE YOUR PHONE NUMBER IS 323-906-

3988 IS THAT CORRECT?

NO MY NUMBER IS (INAUDIBLE)

WHAT IS IT?

(INAUDIBLE)

9440. IS THAT 323?

YES.

HELLO.

Exhibit 4

1 A. LIKE I SAID, THEY WERE ALL IN MY FACE AT THE  
2 SAME TIME. WITH GUNS IN YOUR FACE, IT BLOCKS  
3 EVERYTHING OF WHO IS WHO.

4 Q. SO IT'S FAIR TO SAY YOU COULDN'T DISTINGUISH  
5 BETWEEN MR. MORRIS AND THE TWO OTHER INDIVIDUALS?

6 A. I COULD DISTINGUISH ONE RIGHT IN MY FACE AND  
7 IT WAS MR. MORRIS AND ONE OTHER PERSON THAT LOOKED  
8 SIMILAR TO HIM.

9 Q. OKAY. AND HOW TALL WAS MR. MORRIS?

10 A. WELL, WHEN THE COPS ASKED ME I TOLD THEM  
11 THEY WERE ABOUT FIVE-NINE -- FIVE-EIGHT, FIVE-NINE.

12 Q. WHERE WAS MR. MORRIS DURING THE INCIDENT  
13 WITH THE GUNS IN RELATION TO THE TWO OTHERS AND YOU,  
14 WHERE WAS HE?

15 A. WE WERE IN THE LIVING ROOM.

16 Q. IN RELATION TO YOUR BODY, WAS HE IN BACK OF  
17 YOU?

18 A. NOBODY WAS IN BACK OF ME. THEY WERE ALL IN  
19 FRONT OF ME.

20 Q. ALL THREE WERE IN FRONT OF YOU?

21 A. ALL THREE WERE IN FRONT OF ME.

22 Q. HOW MUCH OPPORTUNITY DID YOU HAVE TO SEE A  
23 FRONT FACIAL VIEW OF MR. MORRIS?

24 A. I HAD LOTS OF TIME. MAYBE LIKE 10 MINUTES.

25 Q. WHAT WAS THE LIGHTING LIKE IN THE LIVING  
26 ROOM?

27 A. UMM, THE KITCHEN LIGHT WAS ON, THE LIVING  
28 ROOM LIGHT WAS ON. I'M NOT GOING TO SAY IT WAS BRIGHT

Exhibit 3



1 BUT ENOUGH TO SEE THEIR FACES BECAUSE THE KITCHEN  
2 LIGHTS ARE REALLY BRIGHT. IT HAS A LIGHT JUST LIKE  
3 THIS ONE UP HERE.

4 THE COURT: POINTING TO THE FLORESCENT LIGHTS IN  
5 THE COURTROOM.

6 THE WITNESS: YES, MA'AM. THEY WERE ALL THREE IN  
7 MY FACE. AND LIKE I SAID, AS THEY WERE RUNNING BACK  
8 AND FORTH, I HAD PLENTY OF TIME TO SEE THEM WAITING AT  
9 THE DOOR, LOOKING OUT THE WINDOW.

10 MR. FISHER: THANK YOU. I HAVE NOTHING FURTHER.

11 THE COURT: ANY REDIRECT?  
12

13 REDIRECT EXAMINATION

14 BY MS. MILLER:

15 Q. BY THE WAY, THIS OTHER INDIVIDUAL, YOU SAID  
16 THERE WAS ANOTHER INDIVIDUAL THAT LOOKED LIKE THE  
17 DEFENDANT AS WELL

18 A. RIGHT.

19 Q. WHEN YOU SAY LOOKED LIKE THE DEFENDANT, DID  
20 IT LOOK LIKE HE COULD BE RELATED TO THE DEFENDANT.

21 A. YES. THAT IS WHY I ASKED IF HE HAD A  
22 BROTHER. MAYBE IN HIS TWENTIES, 23, 24.

23 Q. SO THE OTHER INDIVIDUAL THAT LOOK LIKE THE  
24 DEFENDANT LOOKED LIKE A YOUNGER VERSION OF THE  
25 DEFENDANT?

26 A. THEY WERE ALL YOUNG EXCEPT THE ONE IN THE  
27 SKI MASK BECAUSE I COULD NOT SEE HIS FACE, BUT HE WAS  
28 ABOUT FIVE-FIVE, FIVE-SIX.

Exhibit 6

1 Q. THE ONE IN THE SKI MASK?

2 A. THE SKI MASK.

3 Q. WHAT ABOUT THE ONE THAT LOOK LIKE DEFENDANT  
4 MORRIS, DID HE LOOK YOUNGER THAN HIM?

5 A. YES.

6 Q. SAME HEIGHT?

7 A. I WOULD SAY SO, YES.

8 Q. AND HOW MANY YEARS YOUNGER DO YOU THINK HE  
9 IS THAN THE DEFENDANT?

10 A. WELL, MR. MORRIS LOOKS 27, 28.

11 Q. SO A FEW YEARS YOUNGER?

12 A. 23, 24, I WOULD SAY.

13 Q. AND YOU ARE SAYING THE SAME HEIGHT, SAME  
14 WEIGHT?

15 A. YES.

16 MS. MILLER: NOTHING FURTHER.

17 MR. FISHER: NOTHING FURTHER.

18 THE COURT: THANK YOU, MA'AM, YOU ARE EXCUSED.

19 MS. MILLER: PEOPLE WOULD LIKE TO MARK A  
20 CERTIFIED RAP SHEET IN THE NAME CONDALEE MORRIS.

21 THE COURT: TA077363?

22 MS. MILLER: THAT IS CORRECT. AND ALSO THERE IS  
23 THE -- IF I CAN JUST A MOMENT.

24 IN THAT CASE AS WELL THERE IS THE CONVICTION  
25 FOR 12025(A)(2) AND SPECIFIC CONDITIONS WERE THE  
26 FIREARM RESTRICTION.

27 THE COURT: CAN I SEE THE PROBATION FROM THERE.  
28 I CAN TAKE JUDICIAL NOTICE OF THAT.

Enl. + 7

1 SEMIAUTOMATICS AND GUNS?

2 A. YES.

3 Q. CAN YOU GIVE US A PHYSICAL DESCRIPTION OF  
4 WHAT THE GUY IN THE SKI MASK LOOKED LIKE?

5 AND WHAT I MEAN IS HOW TALL AND -- THAT  
6 PERSON WAS AND THAT PERSON'S APPROXIMATE WEIGHT?

7 A. NO, I CAN'T. EVERYTHING WAS VERY FAST.

8 Q. AND THE OTHER TWO THAT HAD THE  
9 SEMIAUTOMATIC HANDGUNS, CAN YOU GIVE ME A PHYSICAL  
10 DESCRIPTION OF THEM?

11 A. ONE WAS THE SHORT ONE WITH LIKE THIS, WITH-  
12 LIKE THIS, HIS BEARD CUT THIS WAY AND HIS HAIR WOVEN UP.

13 Q. OKAY. I MISSED THAT. LET'S GO TO THE  
14 FIRST PART.

15 YOU SAID HE WAS SHORT. HOW TALL?

16 A. WELL, HE WAS LIKE THE SMALLEST ONE OF ALL  
17 OF THEM.

18 Q. OKAY. APPROXIMATELY HOW TALL WAS HE?

19 A. HE WOULD BE LIKE FIVE FOOT, SOMETHING LIKE  
20 THAT.

21 Q. OKAY. AND YOU SAID SOMETHING ABOUT HIS  
22 HAIRSTYLE.

23 A. AND HE WORE IT LIKE THIS, THE WAY THEY DO  
24 IT, KIND OF WOVEN.

25 Q. LIKE CORN ROWS?

26 A. YES, LITTLE BRAIDS.

27 Q. AND DO YOU REMEMBER WHAT HE WAS WEARING?

28 A. THEY ALL HAD ON A BLACK JACKET, A SWEATER.

Exhibit 8

1 THE INTERPRETER: THE INTERPRETER NEEDS A  
2 CLARIFICATION.

3 THE COURT: YES.

4 THE INTERPRETER: INTERPRETER WOULD LIKE TO  
5 CLARIFY, A SWEAT JACKET.

6 BY MR. LIEBERMAN:

7 Q. AND DID THAT PERSON HAVE FACIAL HAIR, THE  
8 ONE WITH THE CORN ROWS?

9 A. YES, LIKE THE ONES THAT CUT LIKE THIS  
10 (INDICATING).

11 Q. OKAY. AND FOR THE RECORD, IT LOOKS LIKE  
12 YOU TOOK BOTH OF YOUR INDEX FINGERS AND WENT DOWN EACH  
13 CHEEK FROM ROUGHLY EAR LEVEL DOWN TOWARDS YOUR CHIN GOING  
14 TOWARDS ALONG THE BEARD LINE.

15 IS THAT A FAIR DESCRIPTION, YOUR HONOR?

16 THE COURT: YES.

17 BY MR. LIEBERMAN:

18 Q. OKAY. SO THEN THAT PERSON WITH THE CORN  
19 ROWS THEN HAD SORT OF A BEARD?

20 A. HE WAS -- HE WAS WELL SHAVEN ALL THE REST  
21 OF IT, BUT HE KEPT THIS PART. THEY CALL IT LIKE A GOATEE.

22 Q. OKAY. SO THE PERSON WITH THE CORN ROWS  
23 HAD A GOATEE?

24 A. YES.

25 Q. OKAY. NOW, I WANT TO TALK TO YOU ABOUT  
26 THE OTHER PERSON WHO HAD THE SEMIAUTOMATIC HANDGUN.  
27 PLEASE DESCRIBE THAT PERSON'S HEIGHT.

28 A. HE WAS LIKE AROUND FIVE-SEVEN, AROUND

Exhibit a

1 THERE, AND HE WAS THIN.

2 Q. DID HE HAVE ANY PARTICULAR HAIRSTYLE?

3 A. THAT I DIDN'T NOTICE.

4 Q. AND DID THAT PERSON HAVE ANY TYPE OF  
5 FACIAL HAIR THAT YOU RECALL?

6 A. NO.

7 Q. AND DO YOU REMEMBER WHAT THAT PERSON WAS  
8 WEARING, OTHER THAN THE BLACK SWEAT JACKET?

9 A. NO.

10 Q. OKAY. SO JUST SO THAT WE'RE CLEAR, YOU'VE  
11 DESCRIBED TWO PEOPLE WITH SEMIAUTOMATIC HANDGUNS, ONE OF  
12 THEM BEING SHORT AND ONE OF THEM BEING THIN, CORRECT?

13 A. YES.

14 Q. OKAY. AND I WANT TO BE ABLE TO KIND OF  
15 GET THIS STRAIGHT, BECAUSE I'M GOING TO TALK ABOUT WHAT  
16 EACH ONE DID.

17 SO THEN THERE WAS SOMEBODY WHO HAD THE SKI  
18 MASK AND WHO HAD THE SHOTGUN, CORRECT?

19 A. YES.

20 Q. AND THEN THE DEFENDANT WHO HAD THE  
21 REVOLVER; IS THAT CORRECT?

22 A. YES.

23 Q. OKAY. I'M GOING TO BE REFERRING TO THEM  
24 USING THOSE DESCRIPTIONS.

25 SO WHEN THE FOUR GENTLEMEN RAN THROUGH THE  
26 KITCHEN AND APPROACHED YOU, WHAT DID THE DEFENDANT DO?

27 A. HE GRABBED ME BY MY T-SHIRT, BECAUSE I WAS  
28 WEARING A T-SHIRT, HE GRABBED ME LIKE THIS BY MY T-SHIRT

Exhibit 10

1 HIM AT THAT TIME?

2 A. YES.

3 Q. AND DID YOU TELL THE POLICE ANYTHING ABOUT  
4 HIM, ABOUT WHETHER OR NOT THAT WAS ONE OF THE PEOPLE?

5 A. YES.

6 Q. WHAT DID YOU SAY?

7 A. THAT HE WAS -- THAT I WAS SURE THAT HE WAS  
8 ONE OF THEM.

9 Q. AND WAS THAT A TRUTHFUL STATEMENT ON YOUR  
10 PART?

11 A. YES.

12 Q. AND WAS THE INCIDENT STILL FRESH IN YOUR  
13 MIND AT THAT POINT?

14 A. WELL, YES. IT WASN'T EVEN FIVE MINUTES  
15 AFTER THAT HAPPENED.

16 Q. WHAT DID YOU RECOGNIZE ABOUT THE DEFENDANT  
17 WHEN YOU SAW HIM?

18 A. THAT HE WAS THE TALLEST ONE AND SKINNY  
19 AND . . .

20 Q. OKAY. SO HIS HEIGHT AND BUILD?

21 A. YES.

22 Q. DID YOU -- DID HIS FACE, DID YOU RECOGNIZE  
23 HIS FACE?

24 MR. FISHER: OBJECTION. LEADING.

25 THE COURT: SUSTAINED.

26 BY MR. LIEBERMAN:

27 Q. WHEN YOU SAW HIS FACE, WHAT DID YOU THINK?

28 A. I WAS HAPPY THAT THEY HAD GOTTEN ONE OF  
Exhibit //

1 Q. AND HAD ANY MEMBERS OF YOUR FAMILY TALKED  
2 TO YOU ABOUT ANY IDENTIFICATIONS THAT THEY MAY HAVE MADE  
3 PRIOR TO YOU SEEING THE DEFENDANT?

4 A. NO, BECAUSE I WAS THE FIRST ONE WHO WAS  
5 TAKEN.

6 Q. OKAY. DID YOU FIND ANY BOX CUTTERS IN  
7 YOUR HOUSE AFTER THE INCIDENT?

8 A. NO.

9 Q. DID YOU FIND ANY DUCT TAPE IN YOUR HOUSE?

10 A. NO, NO.

11 MR. LIEBERMAN: I HAVE NO MORE QUESTIONS, YOUR  
12 HONOR, AT THIS TIME.

13 THE COURT: ALL RIGHT.

14 MR. FISHER, YOU MAY CROSS-EXAMINE.

15 MR. FISHER: THANK YOU, YOUR HONOR.

16  
17 CROSS-EXAMINATION

18  
19 BY MR. FISHER:

20 Q. WHEN THE POLICE PUT YOU IN THE POLICE CAR  
21 TO MAKE THE IDENTIFICATION, DID THEY TELL YOU THEY HAD ONE  
22 OF THE SUSPECTS THAT -- THAT BURGLARIZED YOUR HOUSE?

23 A. YES.

24 Q. AND WHEN THEY TOOK YOU TO THIS PLACE TO  
25 IDENTIFY THE SUSPECT, WAS MR. MORRIS HERE THE ONLY  
26 AFRICAN-AMERICAN PERSON?

27 A. YES.

28 Q. AND IS IT FAIR TO SAY YOU WERE REAL UPSET,  
*Exhibit 12*

1 Q. I'M ALMOST FINISHED, I JUST WANT TO TALK  
2 ABOUT YOUR IDENTIFICATION.

3 WERE YOU PUT IN A POLICE CAR AND TOLD THAT  
4 THE POLICE HAD THE SUSPECT, ONE OF THE SUSPECTS THAT  
5 BROKE INTO YOUR HOME?

6 A. YES.

7 Q. OKAY. AND WERE YOU DRIVEN IN A POLICE CAR  
8 TO TRY AND IDENTIFY THAT INDIVIDUAL?

9 A. THAT'S RIGHT.

10 Q. AND WHEN YOU SAW -- WHO WAS IN THE POLICE  
11 CAR WHEN YOU MADE THE IDENTIFICATION?

12 A. I WAS ALONE IN THE BACK.

13 Q. DID THE POLICE OFFICERS TELL YOU THAT THAT  
14 WAS THE PERSON THAT THEY THOUGHT ROBBED YOU?

15 A. THEY DIDN'T SAY THAT. THEY SAID THAT IF I  
16 COULD FIGURE OUT IF THAT WAS THE PERSON THAT HAD COME  
17 IN.

18 Q. AND DID YOU IDENTIFY THAT PERSON?

19 A. YES. I TOLD HIM THAT I WAS 95 PERCENT SURE  
20 THAT HE WAS ONE OF THEM.

21 Q. AND WHEN YOU IDENTIFIED THAT PERSON, WAS  
22 THAT PERSON HANDCUFFED?

23 A. YES, HE WAS.

24 Q. WERE UNIFORMED POLICE OFFICERS STANDING NEXT  
25 TO HIM?

26 A. YES.

27 Q. HOW MANY?

28 A. WELL, I DON'T REMEMBER. AT LEAST ONE

Exhibit 13



1 HIM AT THAT TIME?

2 A. YES.

3 Q. AND DID YOU TELL THE POLICE ANYTHING ABOUT  
4 HIM, ABOUT WHETHER OR NOT THAT WAS ONE OF THE PEOPLE?

5 A. YES.

6 Q. WHAT DID YOU SAY?

7 A. THAT HE WAS -- THAT I WAS SURE THAT HE WAS  
8 ONE OF THEM.

9 Q. AND WAS THAT A TRUTHFUL STATEMENT ON YOUR  
10 PART?

11 A. YES.

12 Q. AND WAS THE INCIDENT STILL FRESH IN YOUR  
13 MIND AT THAT POINT?

14 A. WELL, YES. IT WASN'T EVEN FIVE MINUTES  
15 AFTER THAT HAPPENED.

16 Q. WHAT DID YOU RECOGNIZE ABOUT THE DEFENDANT  
17 WHEN YOU SAW HIM?

18 A. THAT HE WAS THE TALLEST ONE AND SKINNY  
19 AND . . .

20 Q. OKAY. SO HIS HEIGHT AND BUILD?

21 A. YES.

22 Q. DID YOU -- DID HIS FACE, DID YOU RECOGNIZE  
23 HIS FACE?

24 MR. FISHER: OBJECTION. LEADING.

25 THE COURT: SUSTAINED.

26 BY MR. LIEBERMAN:

27 Q. WHEN YOU SAW HIS FACE, WHAT DID YOU THINK?

28 A. I WAS HAPPY THAT THEY HAD GOTTEN ONE OF

Exhib 14

1 TRAUMATIZED BECAUSE THIS WAS A -- PROBABLY ONE OF THE MOST  
2 DRAMATIC THINGS THAT'S EVER HAPPENED TO YOU, CORRECT?

3 A. YES.

4 Q. AND YOU WERE GLAD THE POLICE HAD ONE OF  
5 THE SUSPECTS THAT BROKE INTO YOUR HOUSE, CORRECT?

6 A. YES.

7 Q. OKAY. AND WHEN YOU FIRST SAW MR. MORRIS,  
8 WERE THERE ANY UNIFORMED POLICE OFFICERS NEXT TO HIM?

9 A. YES.

10 Q. AND WAS MR. MORRIS HANDCUFFED?

11 A. YES.

12 Q. AND DID ANY OF THE POLICE OFFICERS HAVE  
13 THEIR GUNS DRAWN, IF YOU KNOW?

14 A. NO, I DIDN'T SEE THAT.

15 Q. OKAY. AND APPROXIMATELY HOW LONG DID IT  
16 TAKE YOU TO MAKE THIS IDENTIFICATION OF MR. MORRIS?

17 A. COUPLE OF MINUTES.

18 Q. ALL RIGHT. LET ME ASK YOU THIS: HOW  
19 POSITIVE ARE YOU THAT MR. MORRIS WAS ONE OF THESE PERSONS  
20 THAT -- THAT INVADED YOUR HOME?

21 A. BECAUSE I CAN'T FORGET A PERSON'S FACE IN  
22 FIVE MINUTES.

23 Q. WELL, GIVE ME A PERCENT. ARE YOU A  
24 HUNDRED PERCENT THAT THE PERSON -- THAT MR. MORRIS IS ONE  
25 OF THE GUYS THAT INVADED YOUR HOME?

26 A. FROM 90 TO 95 PERCENT, FROM 90 TO 99  
27 PERCENT.

28 Q. SO ABOUT A 10 PERCENT DOUBT, CORRECT?

Exhibit 15

1 TRAUMATIZED BECAUSE THIS WAS A -- PROBABLY ONE OF THE MOST  
2 DRAMATIC THINGS THAT'S EVER HAPPENED TO YOU, CORRECT?

3 A. YES.

4 Q. AND YOU WERE GLAD THE POLICE HAD ONE OF  
5 THE SUSPECTS THAT BROKE INTO YOUR HOUSE, CORRECT?

6 A. YES.

7 Q. OKAY. AND WHEN YOU FIRST SAW MR. MORRIS,  
8 WERE THERE ANY UNIFORMED POLICE OFFICERS NEXT TO HIM?

9 A. YES.

10 Q. AND WAS MR. MORRIS HANDCUFFED?

11 A. YES.

12 Q. AND DID ANY OF THE POLICE OFFICERS HAVE  
13 THEIR GUNS DRAWN, IF YOU KNOW?

14 A. NO, I DIDN'T SEE THAT.

15 Q. OKAY. AND APPROXIMATELY HOW LONG DID IT  
16 TAKE YOU TO MAKE THIS IDENTIFICATION OF MR. MORRIS?

17 A. COUPLE OF MINUTES.

18 Q. ALL RIGHT. LET ME ASK YOU THIS: HOW  
19 POSITIVE ARE YOU THAT MR. MORRIS WAS ONE OF THESE PERSONS  
20 THAT -- THAT INVADED YOUR HOME?

21 A. BECAUSE I CAN'T FORGET A PERSON'S FACE IN  
22 FIVE MINUTES.

23 Q. WELL, GIVE ME A PERCENT. ARE YOU A  
24 HUNDRED PERCENT THAT THE PERSON -- THAT MR. MORRIS IS ONE  
25 OF THE GUYS THAT INVADED YOUR HOME?

26 A. FROM 90 TO 95 PERCENT, FROM 90 TO 99  
27 PERCENT.

28 Q. SO ABOUT A 10 PERCENT DOUBT, CORRECT?

Exhibit 15

1 HIM AT THAT TIME?

2 A. YES.

3 Q. AND DID YOU TELL THE POLICE ANYTHING ABOUT  
4 HIM, ABOUT WHETHER OR NOT THAT WAS ONE OF THE PEOPLE?

5 A. YES.

6 Q. WHAT DID YOU SAY?

7 A. THAT HE WAS -- THAT I WAS SURE THAT HE WAS  
8 ONE OF THEM.

9 Q. AND WAS THAT A TRUTHFUL STATEMENT ON YOUR  
10 PART?

11 A. YES.

12 Q. AND WAS THE INCIDENT STILL FRESH IN YOUR  
13 MIND AT THAT POINT?

14 A. WELL, YES. IT WASN'T EVEN FIVE MINUTES  
15 AFTER THAT HAPPENED.

16 Q. WHAT DID YOU RECOGNIZE ABOUT THE DEFENDANT  
17 WHEN YOU SAW HIM?

18 A. THAT HE WAS THE TALLEST ONE AND SKINNY  
19 AND . . .

20 Q. OKAY. SO HIS HEIGHT AND BUILD?

21 A. YES.

22 Q. DID YOU -- DID HIS FACE, DID YOU RECOGNIZE  
23 HIS FACE?

24 MR. FISHER: OBJECTION. LEADING.

25 THE COURT: SUSTAINED.

26 BY MR. LIEBERMAN:

27 Q. WHEN YOU SAW HIS FACE, WHAT DID YOU THINK?

28 A. I WAS HAPPY THAT THEY HAD GOTTEN ONE OF

Enb 14

1 THEM.

2 Q. OKAY. WAS THAT THE SAME FACE THAT YOU HAD  
3 SEEN INSIDE YOUR ROOM AND INSIDE YOUR WIFE'S ROOM?

4 A. YES.

5 Q. LATER ON OR AFTER THE INCIDENT, DID YOU  
6 FIND ANY PROPERTY INSIDE YOUR HOUSE THAT WASN'T YOURS?

7 A. YES.

8 Q. WHAT DID YOU FIND?

9 A. I FOUND A CROWBAR THAT THEY OPENED THE  
10 DOOR WITH AND A BACKPACK.

11 MR. LIEBERMAN: YOUR HONOR, I HAVE IN MY HAND WHAT  
12 APPEARS TO BE A PHOTOGRAPH OF A BACKPACK, OR IT'S A  
13 PHOTOGRAPH AND APPEARS TO BE A BACKPACK.

14 I'D LIKE IT MARKED AS PEOPLE'S NEXT IN  
15 ORDER.

16 THE COURT: EIGHT FOR IDENTIFICATION.

17  
18 (MARKED FOR ID = PEO. 8, PHOTOGRAPH.)

19

20 BY MR. LIEBERMAN:

21 Q. OKAY. MR. RAYOS, I'M SHOWING YOU WHAT'S  
22 BEEN MARKED AS PEOPLE'S NO. 8 FOR IDENTIFICATION.

23 DO YOU RECOGNIZE WHAT THAT IS?

24 A. YES.

25 Q. WHAT IS THAT?

26 A. A BACKPACK.

27 Q. IS THAT THE BACKPACK THAT YOU FOUND?

28 A. YES.

*Ch. pt 16*

1 A. NO.

2 Q. COULD YOU SEE WHAT ANYBODY ELSE WAS DOING,  
3 IF THEY WERE DOING ANYTHING TO YOUR SON OR YOUR  
4 GRANDSON?

5 A. NO. I WAS LYING DOWN WITH A LOT OF PAIN.

6 Q. AFTER YOUR WIFE WAS TAKEN OUT OF THE ROOM,  
7 IS THAT WHEN YOU SHUT THE DOOR TO YOUR BEDROOM?

I\*bOW

B\*bOW

8 A. YES.

9 Q. SO YOU DON'T KNOW IF ANYONE DID ANYTHING TO  
10 YOUR WIFE AT THAT POINT?

11 A. I COULDN'T SEE ANYTHING ELSE.

12 Q. HOW MANY MINUTES AFTER YOU HAD HEARD THE  
13 INDIVIDUALS RUNNING AROUND THE HOUSE AND THE POLICE  
14 CAME IN, HOW MANY MINUTES PASSED BETWEEN THAT TIME AND  
15 THE TIME YOU WERE TAKEN IN THE POLICE CAR TO IDENTIFY  
16 THE INDIVIDUAL?

17 A. ABOUT -- I DON'T REMEMBER VERY WELL BUT WE  
18 DIDN'T TAKE THAT LONG.

19 Q. WHEN YOU SAY YOU DIDN'T TAKE THAT LONG, LESS  
20 THAN 15 MINUTES?

21 A. YES.

22 Q. WAS THE HELICOPTER STILL OVERHEAD WHEN YOU  
23 HAD GONE OUTSIDE TO GO MAKE IDENTIFICATION?

24 A. NO, NOT ANYMORE.

25 Q. YOU TALKED ABOUT BEING KICKED AND HIT IN THE  
26 NECK REGION. YOU SAID THE GUN. CAN YOU TELL ME ABOUT  
27 YOUR ACTUAL INJURIES, WAS THERE BRUISING OR ANYTHING TO  
28 YOUR RIBS?

IOW

Exhibit 17

1 WAS ACTUALLY DOING THE VIEWING?

2 A. NO, NOT -- NOT THE ACTUAL VIEWING. WHEN  
3 HE CAME BACK, BECAUSE I STAYED WITH THE REST OF THE  
4 VICTIMS.

5 Q. OKAY. DID YOU SEE HOW THE VIEWING WAS  
6 BEING CONDUCTED?

7 A. I DID, YEAH, BECAUSE IT WASN'T TOO FAR, SO  
8 I COULD SEE.

9 Q. ALL RIGHT. SO HE SAID, "THAT'S HIM"?

10 A. YES.

11 Q. WHAT WERE HIS EXACT WORDS?

12 A. IF I CAN REVIEW MY REPORT?

13 Q. DO YOU HAVE YOUR REPORT WITH YOU?

14 A. YEAH, I DO.

15 Q. IF THAT WOULD REFRESH YOUR RECOLLECTION,  
16 PLEASE LOOK AT IT. WHEN YOUR MEMORY IS REFRESHED, PLEASE  
17 LOOK UP.

18 IS YOUR MEMORY REFRESHED?

19 A. "THAT'S HIM. THAT'S ONE OF THEM."

20 Q. "THAT'S ONE OF THEM"?

21 A. YES.

22 Q. OKAY. AND WHAT DID KATHERINE SAY?

23 A. "YES, THAT'S HIM. THAT'S ONE OF THE ONES  
24 WHO CHOKED ME AND SOCKED ME IN THE FACE."

25 Q. DID SHE SAY THAT'S ONE OF THE ONES OR  
26 SOMETHING ELSE?

27 A. "HE'S THE ONE WHO CHOKED AND SOCKED ME IN  
28 THE FACE."

Exhibit 18

1 Q. INDIVIDUALLY?

2 A. INDIVIDUALLY.

3 Q. AS PART OF THE VIEWING PROCESS, WAS THE  
4 DEFENDANT LIT UP WITH ANY PARTICULAR LIGHTING SOURCE?

5 A. YES.

6 Q. DESCRIBE THAT.

7 A. ON OUR POLICE VEHICLES WE HAVE SOME  
8 OVERHEAD LIGHTS THAT ARE ON THE DRIVER'S SIDE AND THE  
9 PASSENGER SIDE OF THE VEHICLE. THOSE LIGHTS WERE TURNED  
10 ON THE DEFENDANT FOR TWO REASONS. ONE, TO ILLUMINATE HIM;  
11 AND, TWO, SO THAT HE WOULD NOT -- HE OR SHE WOULD NOT BE  
12 ABLE TO SEE BACK TO SEE WHO IS VIEWING HIM.

13 Q. OKAY.

14 A. SO THAT THERE ARE, YOU KNOW, THEIR  
15 IDENTITY IS NOT SHOWN.

16 Q. OKAY. WHAT DID HELADIO SAY WHEN HE VIEWED  
17 THE DEFENDANT?

18 A. HE SAID, "THAT'S HIM," AND HE SAID THAT  
19 WHEN HE CAME BACK. HE WAS IN -- PUT IN A VEHICLE, TAKEN,  
20 DRIVEN BACK.

21 Q. SO HE DIDN'T SAY ANYTHING UNTIL HE GOT  
22 BACK, OR DID HE SAY SOMETHING AT THE SCENE?

23 A. WELL, HE WAS IN THE VEHICLE. HE CAME --  
24 AND I STAYED BACK. THEN WHEN HE CAME BACK, THAT'S WHEN I  
25 ASKED HIM.

26 Q. OKAY. SO WHO DROVE HIM OVER THERE?

27 A. I DON'T RECALL WHO DROVE HIM OVER THERE.

28 Q. SO YOU WEREN'T ACTUALLY PRESENT WHEN HE

main 19



1 Q. SHOWING YOU PEOPLE'S 23.  
2 DID YOU NOTICE ANY DAMAGE TO ANY OF THE  
3 DOORS?

4 A. THE -- THE REAR DOOR OF THE HOUSE WAS  
5 DAMAGED.

6 Q. OKAY. DESCRIBE IT.

7 A. I BELIEVE -- I CAN'T RECOLLECT. I JUST  
8 REMEMBER THAT IT BEING LIKE THE DOORJAMB APPEARED TO BE  
9 LIKE IT WAS BUSTED OR KICKED IN.

10 Q. OKAY.

11 I'M ALMOST DONE, YOUR HONOR.

12 I HAVE THREE SMALL ENVELOPES IN MY HAND.  
13 THEY ALL THREE APPEAR TO CONTAIN OR ARE LABELED --  
14 WITHDRAWN.

15 I HAVE NO MORE QUESTIONS, YOUR HONOR.  
16 THE COURT: CROSS-EXAMINE.

17  
18 CROSS-EXAMINATION

19  
20 BY MR. FISHER:

21 Q. WHEN YOU WERE INTERVIEWING THESE  
22 WITNESSES, DID YOU TAKE ANY NOTES?

23 A. YES, I DID.

24 Q. DID YOU BRING THOSE NOTES TO COURT TODAY?

25 A. NO, I DIDN'T.

26 Q. HOW LONG AFTER THIS INCIDENT -- WHERE ARE  
27 THESE NOTES?

28 A. *Exhibit 20* I EITHER DISCARDED THEM OR I MAY HAVE THEM

1 SOMEWHERE.

2 Q. YOU KNOW YOU'RE SUPPOSED TO KEEP THE  
3 NOTES, DON'T YOU?

4 A. AT THE TIME I DIDN'T KNOW. I LATER FOUND  
5 OUT THAT IT PROBABLY WOULD HAVE BEEN A GOOD IDEA TO KEEP  
6 THEM.

7 Q. HOW LONG AFTER THE INTERVIEW WAS THE  
8 POLICE REPORT PREPARED BY YOUR PARTNER WHEN YOU SAY THEY  
9 MADE THESE STATEMENTS?

10 A. LET'S SEE, PROBABLY WE GOT THE CALL  
11 APPROXIMATELY 1:05. I WOULD SAY THAT WHERE WE STARTED  
12 WRITING, ACTUALLY WRITING THE REPORT WAS APPROXIMATELY  
13 5:00 TO MAYBE 6:00 IN THE MORNING, SOMEWHERE AROUND THERE.

14 Q. SO HOW MANY HOURS AFTER THE STATEMENT WAS  
15 MADE REGARDING THE IDENTIFICATION WAS THE -- THAT PART OF  
16 THE REPORT WRITTEN?

17 A. WELL, THAT WOULD BE AROUND FIVE TO SIX  
18 HOURS.

19 Q. AND YOU REMEMBER YOU HAD SOME NOTES?

20 A. YES.

21 Q. AND DO YOU KNOW WHAT YOU DID WITH THOSE  
22 NOTES AGAIN?

23 A. I DON'T REMEMBER WHAT I DID WITH THEM.

24 Q. OKAY. NOW, ARE YOU BROADCASTING ON DUPLEX  
25 AT THE TIME YOU MAKE CONTACT WITH MR. MORRIS HERE?

26 A. WHAT WE BELIEVE WE DID IS EITHER MY  
27 PARTNER AND I, WE AT LEAST ON DUPLEX WE'D SAY WE'VE MADE  
28 CONTACT WITH THE SUSPECT, BUT MOST OF IT WAS TALKING TO

EXHIBIT 21

- Crime with which suspect was identified;
- Name of person who made identification;
- DR number of report of crime with which suspect was identified;
- Name of the concerned law enforcement agency and the case number, when suspect identified with a crime committed in another jurisdiction;
- Names of victims and witnesses attending the "show-up;"
- Names of suspect's defense attorneys and deputy district attorneys attending the "show-up;"
- Name and serial number of the officer who selected the participants for the "show-up;"
- Unusual actions which the investigating officer requested the suspect to perform during the "show-up;" and,
- Name, serial number, and detail of officer conducting the "show-up."

**Suspect Not Identified.** When no suspects are identified in a "show-up," the teletype notification shall contain the following:

- NO SUSPECTS IDENTIFIED;
- (Names of victims and witnesses attending the "show-up"); and,
- (Name, serial number, and detail of officer conducting the "show-up".)

**203.50 IDENTIFICATION OF SUSPECTS IN THE FIELD.** A suspect may be transported to a victim or witness for the purpose of identification when:

- An officer is conducting a preliminary investigation and a field confrontation is necessary to determine if the suspect is the perpetrator of the offense; and,
- Probable cause exists to arrest the suspect for the offense; or,
- Exigent circumstances exist that make it unreasonable for the victim or witness to be transported to the suspect; or,
- The officer obtains the free and voluntary consent of the suspect.

An officer who intends to conduct a field confrontation shall inform the victim or witness that:

- The person is in temporary custody as a possible suspect only; and,
- The fact the person is in police custody does not indicate his/her guilt or innocence; and,
- The purpose of the confrontation is either to eliminate or identify the person as the perpetrator.

**735.05 SCHEDULING AND LOCATION OF FORMAL SHOW - UPS FOR ADULT SUSPECTS.** Formal show-ups for adult suspects shall be conducted in:

- The Auditorium, Room 100, Parker Center;
- The Auditorium of the Los Angeles County Central Jail; or,
- The designated facilities at Los Angeles County Jail.

Exhibit 22

1 Q. OKAY. IS THE PERSON YOU ARRESTED IN THE  
2 COURTROOM RIGHT NOW?

3 A. YES, HE IS.

4 Q. CAN YOU PLEASE POINT HIM OUT AND DESCRIBE  
5 WHAT HE'S WEARING.

6 A. HE'S WEARING A WHITE LONG-SLEEVED SHIRT  
7 SITTING NEXT TO COUNSEL.

8 THE COURT: INDICATING DEFENDANT MORRIS FOR THE  
9 RECORD.  
10 BY MR. LIEBERMAN:

11 Q. WHAT DID YOU DO AFTER TAKING HIM INTO  
12 CUSTODY?

13 A. WE CONDUCTED A FOLLOW-UP TO THE HOUSE, TO  
14 THE LOCATION.

15 Q. WHEN YOU DID THAT, WHERE WAS THE  
16 DEFENDANT?

17 A. HE -- MY PARTNER STAYED THERE WITH HIM.

18 Q. OKAY.

19 A. WE WALKED OVER THERE, OR I WALKED OVER  
20 THERE.

21 Q. SO THE DEFENDANT WAS IN A CAR OR WAS HE  
22 JUST OUTSIDE?

23 A. WE PUT HIM IN OUR POLICE VEHICLE.

24 Q. OKAY. SO THEN YOU WENT TO THE HOUSE?

25 A. CORRECT.

26 Q. 1806?

27 A. CORRECT.

28 Q. AND WHAT DID YOU DO WHEN YOU GOT THERE?

1 A. CORRECT.

2 MR. FISHER: OBJECTION. LEADING.

3 THE COURT: OVERRULED.

4 BY MR. LIEBERMAN:

5 Q. OKAY. AND IS THAT HOW THIS IS ALWAYS  
6 DONE?

7 A. IT'S ALWAYS HOW I'VE DONE IT.

8 Q. OKAY. IS THAT HOW YOU WERE TAUGHT TO DO  
9 IT?

10 A. YES, THAT'S HOW I WAS TRAINED.

11 Q. OKAY. SO DID YOU READ THAT ADMONITION  
12 FROM THE CARD WITH RESPECT TO EACH PERSON WHO  
13 PARTICIPATED?

14 A. CORRECT.

15 Q. WHICH FAMILY MEMBERS PARTICIPATED IN THE  
16 SHOWUP?

17 A. KATHERINE, HELADIO AND DENISE, I BELIEVE.

18 Q. DID THEY VIEW THE DEFENDANT?

19 A. YES, THEY DID.

20 Q. WHERE?

21 A. WELL, WHAT HAPPENED WAS THE DEFENDANT WAS  
22 PRETTY FAR DOWN THE STREET, SO -- SO WE DIDN'T HAVE TO  
23 WALK THEM ALL THE WAY DOWN THERE, THE DEFENDANT WAS  
24 BROUGHT, OH, PROBABLY HALFWAY BETWEEN 1806 AND WHERE HE  
25 WAS DETAINED, SO HE WAS STILL AWAY FROM THE LOCATION, AND  
26 EACH ONE WAS -- EACH OF THE VICTIMS WERE PUT IN A POLICE  
27 CAR AND TAKEN DOWN TO WHERE THEY WERE. THEY VIEWED AND  
28 THEN THEY WERE DRIVEN BACK.

Exhibit 24

## Legal Argument 5

THE APPELLATE WAS SUBJECTED TO A "NON-EXIGENT" SHOW-UP BY THE LAPD AND WITHOUT BEING PERSONALLY PRESENT WITH COUNSEL.

THE CALIFORNIA CONSTITUTION AFFORDS ITS CITIZENS "NON-EXIGENT" PRESENCE OF COUNSEL AT ANY LAW ENFORCEMENT INVESTIGATIVE PROCEEDING (SEE *CLEAVER V. SUPERIOR COURT* 24 CAL.3D 297).

IN ADDITION LAPD'S PRACTICE AND PROCEDURE MANUAL SECTION 203.50 INSTRUCTS ITS POLICE OFFICERS TO OBTAIN THE FREE AND VOLUNTARY CONSENT OF THE SUSPECT WHEN CONDUCTING IDENTIFICATIONS IN THE FIELD (SEE EXHIBIT 1).

THE MOST RECENT DECISION ADDRESSING THIS ISSUE WAS MADE IN *PEOPLE V. LOOK* 40 CAL 4TH 1334. THE COURT BASED ITS DECISION UPON SIXTH AMENDMENT CONSTITUTIONAL REASONING ESTABLISHED IN *KIRBY V. ILLINOIS* (1972) 406 US 682; *BREWER V. WILLIAMS* (1977) 430 US 387; *PEOPLE V. JOHNSON* (1992) 3 CAL 4TH 1143.

HOWEVER, THOSE DECISIONS ARE BASED ON THE APPLICATION OF THE SIXTH AMENDMENT TO STATES BY WAY OF THE FOURTEENTH AMENDMENT. THE SIXTH AMENDMENT DECLARES IN PART: "TO HAVE THE ASSISTANCE OF COUNSEL FOR HIS DEFENSE."

THE CALIFORNIA CONSTITUTION BASICALLY HAS THE SAME WORDING AS THE SIXTH AMENDMENT, BUT ADDS ADDITIONAL LANGUAGE BY DECLARING:

1 TO HAVE THE ASSISTANCE OF COUNSEL FOR THE  
2 DEFENDANTS DEFENSE (TO BE PERSONALLY PRESENT WITH  
3 COUNSEL)

4 THIS IS WHAT GIVES THE APPELLANT STANDING FOR  
5 THIS APPELLATE COURT TO DETERMINE IF HIS SUBSTANTIAL  
6 STATE CONSTITUTIONAL RIGHTS HAVE BEEN VIOLATED

7 FURTHERMORE, ARTICLE I SECTION 24 DOES NOT  
8 PROHIBIT THE COURT FROM LITIGATING THIS ISSUE  
9 BY DECLARING

10 "THIS CONSTITUTION SHALL NOT BE CONSTRUED BY  
11 THE COURT TO AFFORD GREATER RIGHTS TO CRIMINAL  
12 DEFENDANTS THAN THOSE AFFORDED BY THE CONSTITUTION  
13 OF THE UNITED STATES"

14 A STATE IMMINENT MEASURE CANNOT ALTER  
15 FORCE OR CHANGE ANY RIGHTS SECURED BY ARTICLE  
16 I SECTION 15 WITHOUT THE CONSTITUTION BEING AMENDED  
17 PURSUANT TO ARTICLE XVIII. SECTION 1

18  
19 BE INFORMED I AM ASKING FOR A REVIEWAL  
20 OF THE FOLLOWING COUNTS 1, 2, 9, 10  
21  
22  
23  
24  
25  
26  
27  
28



- Crime with which suspect was identified;
- Name of person who made identification;
- DR number of report of crime with which suspect was identified;
- Name of the concerned law enforcement agency and the case number, when suspect identified with a crime committed in another jurisdiction;
- Names of victims and witnesses attending the "show-up;"
- Names of suspect's defense attorneys and deputy district attorneys attending the "show-up;"
- Name and serial number of the officer who selected the participants for the "show-up;"
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- An officer is conducting a preliminary investigation and a field confrontation is necessary to determine if the suspect is the perpetrator of the offense; and, *There was no*
- Probable cause exists to arrest the suspect for the offense; or,
- *no* Exigent circumstances exist that make it unreasonable for the victim or witness to be transported to the suspect; or,
- The officer obtains the free and voluntary consent of the suspect. *and then did have that*

An officer who intends to conduct a field confrontation shall inform the victim or witness that:

- The person is in temporary custody as a possible suspect only; and,
- The fact the person is in police custody does not indicate his/her guilt or innocence; and,
- The purpose of the confrontation is either to eliminate or identify the person as the perpetrator.

**735.05 SCHEDULING AND LOCATION OF FORMAL SHOW - UPS FOR ADULT SUSPECTS.** Formal show-ups for adult suspects shall be conducted in:

- The Auditorium, Room 100, Parker Center;
- The Auditorium of the Los Angeles County Central Jail; or,
- The designated facilities at Los Angeles County Jail.

Exhibit 1



## Legal Argument

Mr Lieberman violated the due process clause of the fourteenth Amendment for failure to disclose "Material Evidence to the Defense" Under Brady v Maryland "Discovery"

## Supporting facts

The only thing that the defense wasn't provided by (Mr Lieberman) that he should have been provided would be the reports themselves with respect to the prints lifted off the items listed in the property report and the prints lifted in the interior of the residence by Earls (2) There is also a clear violation of the 30-day Discovery rule And (3) Also a fair comparison should had been made because of the Inadequacy of the prints in A.F.I.S computer and the Booking prints (see the Exhibits 1 R+

667	668	669	670	671	672	673	674
675	676	677	678	679	680	681	704
705	706	707	708	709	710	711	712
713	513	514	515	516	517	518	563
564	565	850	851	<del>851</del>	852		

## Issues

1) Did Mr Lieberman failure to disclose

1 "Material Evidence to the defense that could have  
2 prove (~~Mr Morris~~) was Mistakenly Identified  
3

4 2) Whether this is a clear violation of  
5 the 30-days Discovery rule  
6

7 3) Whether a fair comparison should have  
8 been made because of the Inadequacy  
9 of the prints in A.F.I.S computer and the  
10 booking prints  
11

12 The most compelling evidence is the  
13 fingerprints in this case. Much better than  
14 the suggestive "non exigent" field show-up,  
15 Mr Morris was put in.

16 If Mr Lieberman would have provided  
17 the reports to the defense. A fair comparison  
18 could have been made. Then a innocence man  
19 would not be in prison today. I do believe  
20 if the reports was turnover to the defense.

21 Mr Lieberman could not prove this case  
22 beyond a reasonable doubt. I'm going  
23 to explain why Mr Lieberman intentionally  
24 didn't what the defense to get there hands  
25 on those reports. Because it would have prove

26 (1) That Mr Morris was not the guy that  
27 ran out of the house with Katherine  
28 gun (2) It would also prove that the police

1 in the helicopter did lost sight of the suspect,  
2 the same suspect that made a tossing gesture  
3 toward some bushes, where a officer  
4 found Katherine gun. I know this is were  
5 the police in the Helicopter lost sight of  
6 the suspect. Because of the trees on  
7 Gramercy is like a umbrella it covers  
8 the street from the air. The police  
9 notice a black man in the same area,  
10 after they lost sight of the suspect,  
11 So they turn there light on Mr  
12 Morris that was walking down the street  
13 on the north side of 42nd Place. Then two  
14 officer's in a black and white detain  
15 Mr Morris.  
16 Like the police officer in the helicopter  
17 said if they lost sight of a suspect 9  
18 times out of 10 he will be gone. And  
19 that's what happen in this case.  
20 keep in mind, also that his helicopter  
21 was eqipped with video Camera. And  
22 the officer's are trained to operate the  
23 Camera and focus on the ground at the  
24 same time. But this officer said  
25 he can't do both. And that's hard to  
26 believe, This is also hard to believe  
27 that officer Dale Melton, The Observer,  
28 And this is his job, to responed to.

1 radio call, talk with the officers on the  
2 ground and report to the officer's on  
3 what he see happening on the ground.  
4 There is a Los Angeles Police  
5 Department communications Chrono log on  
6 this Incident, when the 911 call  
7 came in, when they were notified,  
8 And when they arrive on the scene  
9 of the crime, But there is no broad  
10 cast or recording on what the helicopter  
11 officer's seen after they arrive at the  
12 scene.  
13 when they seen this person exit  
14 the front door when this man ran  
15 down the street when is mad man  
16 made this gesture towards the bushes,  
17 Or when this suspect ran to Gramercy  
18 Or when they detained this innocent  
19 man Mr Morris, keep in mind this  
20 officer Dale Melton had the officer's to  
21 switch to the frequency to "Simplex".  
22 I'm going to tell you about Simplex.  
23 On simplex the conversation aren't recorded  
24 down at the LAPD's Communication Center.  
25  
26 " Let's talk about, when Mr Morris  
27 was taken into custody. And than

1 put in a suggestive non exigent field show  
2 up by the officer's that detain him.

3  
4 How the LAPD violated there own police  
5 procedure to get a Identification ~~in a~~ ~~show up~~

6 "See 203.50 Identification of suspect -  
7 in the field And also see, when a  
8 suspect identified or not Identified in a  
9 "Show-up" the teletype notification card  
10 should be filled out (see exhibit 2)

11  
12 A suspect maybe transported to a  
13 victim or witness for the purpose of  
14 identification ~~at~~ when (1) An officer is  
15 conducting a preliminary investigation and a  
16 field confrontation is necessary to determine  
17 if the suspect is the perpetrator of the  
18 offense. The officer who conduct this  
19 field confrontation Told the victim in  
20 Count 1.

21 Counsel asked him, did the police  
22 officer tell you that they had the  
23 suspect that Burglarized your house?

24 Before you went to make your  
25 Identification? and he said yes

26 (Rt 374 Line 20-23) (Ct 86 Line 1-6)

27 (see exhibit 3-4)



1 Pre suggestive that they have the person  
2 that did it tainting any kind of objectivity  
3 or creating bias from the witness before  
4 the Identification

5  
6 2) Probable Cause exists to arrest the  
7 suspect for the offense. The officer who  
8 conducted this field Confrontation made it  
9 clear that I was the perpetrator and, that  
10 made it Probable Cause to arrest Mr Morris

11  
12 3) Exigent circumstance exist that make  
13 it unreasonable for the victim or witness to  
14 be transported to the suspect; If this counts  
15 well, what happened was the defendant  
16 was pretty far down the street, so  
17 we didn't have to walk them all the  
18 way down there, The defendant was brought  
19 on, Probably Halfway between 1806 and where  
20 he was detained, so He was still away  
21 from the location, and each of the victims  
22 were put in a police car and taken down  
23 to where they were, They viewed  
24 and then they were driven back (648 line  
25 21-28) (P 642 line 11-27) (exhibits 5-6)

26  
27 4) The officer obtain the free and

1 Voluntary Consect of the suspect. And  
2 you now that didn't happen.

3

4 They said the victim's Identified Mr  
5 Morris in the field show-up so where is  
6 the teletype notification card, I know it  
7 was discarded (RT 660-21-28) (RT 661-1-23)  
8 (Exhibit 7-8)

9 I would like to take you to the "follow  
10 up investigation" by Los Angeles Police Department  
11 And why to this day I still don't have  
12 them reports themselves with respect  
13 to the prints lifted off the Items listed  
14 in the property report and the prints lifted  
15 in the interior of the residence by Earls  
16 T# C8866

17 Because the LAPD notified SID latent  
18 prints section Earls T# C8866 responded and  
19 took prints of the crime scene and  
20 evidence recovered by officers

21

22 Item (1-3) is the gun that was  
23 recovered outside on the westside of the  
24 house 1816. Item (6) is bag of Cocaine  
25 that was also found outside in front of  
26 1810 next door to 1806. "Follow up investigation"  
27 that morning; Item 14-15 was found  
28 more bags of cocaine that was found in

1 front of 1806 on the sidewalk.

2  
3 Item 4 and 5 was recovered inside of  
4 1806 also 7, 8, 10 (see exhibit 9)

5  
6 Also the prints in AFIS computer  
7 and the booking prints that was  
8 Inadequacy still not turnover to  
9 me' why is that is it because you  
10 already now Mr Morris is innocent of  
11 this crime.

12  
13 I don't see a further problem in  
14 making a comparison with all the evidence  
15 in this case. And making a comparison  
16 with all the prints in AFIS computer and  
17 with the booking prints to see if there  
18 anything wrong with those prints. If matches  
19 were made also or at least comparison  
20 made in this case. And no matches  
21 established that would be exonerating information  
22 and it is Required under Brady

23  
24 Due process require the disclosure  
25 to the defense of evidence  
26 favorable



1 to an accused" That is material  
2 either to guilt or to punishment" Brady v  
3 Maryland (1963) 373 US 83 87 10 Led 2d  
4 215 83 Sct 1194; United States v  
5 Bagley (1985) 473, us 667 676; 87  
6 Led 2d 481; 105 sct 3375; Brady  
7 Disclosure is required even though it  
8 is not included within Pen C § 1054.1  
9 because it is mandated by the united  
10 states constitution Penal C § 1054(e)  
11 (Discovery required by united states  
12 Constitution must be Disclosed) IZAZAGA  
13 V Superior Court (1991) 54 C3d 356, 378  
14 285 CR 231. Evidence is favorable if it  
15 either help the defendant or hurt the  
16 prosecution. People v Santos (1994) 30  
17 CA 4th 104, 35 CR2d 719; In addition  
18 the "Brady" obligation can require disclosure  
19 of reports and statements of experts  
20 and witnesses. The prosecutor does  
21 not intend to call at trial. (See penal  
22 code section 1054.1 (f). "Brady also  
23 place a duty on prosecutor to learn  
24 of any favorable evidence known  
25 to others action on the governments  
26 behalf including the police and crime  
27 LABS. (see Kyles v Whitley (1995)  
28 514 US 419 131 Led 2d 490; 115 sct

1 1155; In re Brown (1998) 17 C4th 873, 72 CR  
 2 2d 698. See People v Little (1997) 59 CA 4th  
 3 426, 68 CR 2d 907

4  
 5 Evidence is considered "Material"  
 6 only there is reasonable probability that had  
 7 it been Disclosed to the Defense the result  
 8 would have been different, Reasonable  
 9 Probability is Defined as a Probability  
 10 sufficient to undermine confidence in the  
 11 outcome on the part of a Reviewing Court  
 12 (In re Sussounian (1995) 9 C4th 353, 544;  
 13 n6 36 CR 2d 466 (Citing United States v  
 14 Bagley supra, see also Kyles v Whitey (1995  
 15 514 US 419, 131 LEd 2d 490 115 Sct 1999.  
 16 United States v Agurs (1976) 427 US 97 108,  
 17 49 LEd 2d 342 352 96 Sct 2392. The  
 18 Failure of the prosecution to Disclose "Brady  
 19 Material" certainly when intentional, But  
 20 even when negligent, can result in  
 21 (Reverall) Merrill v Superior Court  
 22 (1994) 27 CA 4th 1586, 33 CR 2d 515  
 23 and can even be viewed as prosecutorial  
 24 misconduct.

25  
 26 Since the failure of the prosecution to  
 27 disclose "Brady Material" if it was intentional  
 28 or even if it was negligent (Reverall) is required  
 in all counts (10/11)

# EXHIBIT



Exhibit 1 starts at page

667, 668 669 670 671 672 673

674 675 676 677 678 679 680 681

704 705 706 707 708 709 710 711

712 713 513 514 515 516 517 518

563 564 565 850 851 852

1 CASE NUMBER: BA279836  
2 CASE NAME: PEOPLE VS. CONDALEE MORRIS  
3 LOS ANGELES, CALIFORNIA; THURSDAY, JULY 28, 2005  
4 DEPARTMENT NO: 101 HON. WILLIAM R. POUNDERS, JUDGE  
5 REPORTER: JEANNE C. IANNONE, CSR NO. 3140  
6 TIME: 9:39 A.M.  
7

8 (APPEARANCES AS HERETOFORE NOTED.)  
9

10 (THE FOLLOWING PROCEEDINGS WERE  
11 HELD IN OPEN COURT OUTSIDE THE  
12 PRESENCE OF THE JURY:)  
13

14 THE COURT: OKAY. WE DO HAVE MR. MORRIS AND BOTH  
15 COUNSEL PRESENT. THE JURORS I GUESS HAVE CHECKED IN SO I  
16 THINK WE'RE READY TO GO.

17 ANYTHING WE NEED TO TAKE UP?

18 MR. FISHER: I JUST HAVE AN -- I HAVE AN OBJECTION,  
19 YOUR HONOR. COUNSEL IS PROPOSING TO HAVE THE SID LATENT  
20 PRINT PERSON ROLL MY CLIENT'S FINGERPRINTS AND COMPARE  
21 THEM WITH WHATEVER IS LIFTED AT THE -- AT THE CRIME SCENE,  
22 APPARENTLY, ALL RIGHT. AND MY PROBLEM WITH ALL OF THIS IS  
23 THERE HAS BEEN A HUGE DISCOVERY VIOLATION. THIS STUFF WAS  
24 SUPPOSED TO BE TURNED OVER TO ME 30 DAYS BEFORE TRIAL, AND  
25 I'VE BEEN ASKING MARNA MILLER FOR THIS INFORMATION, AND SO  
26 WHAT WE HAVE NOW IS A SITUATION WHERE I'M -- I'M -- THE  
27 REASON -- THE REASON GIVEN TO ME THIS MORNING FOR WANTING  
28 TO ROLL THE DEFENDANT'S FINGERS AT THIS POINT IS BECAUSE

1 BOTH THE BOOKING FINGERPRINTS AND THE FINGERPRINTS THAT  
2 ARE CONTAINED IN THE COMPUTER, OKAY, ACCORDING TO THE  
3 LATENT PRINT EXPERT AREN'T SUFFICIENT, WHICH IS INCREDIBLE  
4 AND VERY HARD TO BELIEVE, AND I'M HERE STUCK WITHOUT AN  
5 EXPERT.

6 *Counsel*  
7 *Cole* I DON'T HAVE THE FINGERPRINTS FROM THE  
8 COMPUTER, I DON'T HAVE -- I HAVEN'T SEEN ANY FINGERPRINTS  
9 AT ALL THAT WERE LIFTED FROM THE CRIME SCENE. I DON'T  
10 EVEN KNOW WHAT FINGERPRINTS ARE LIFTED AND YOU KNOW HOW IT  
11 GOES.

12 I MEAN I'VE BEEN -- I'M HERE IN THE MIDDLE  
13 OF TRIAL, I GOT THIS STUFF DUMPED ON ME. I FIRST FOUND  
14 OUT THAT THERE WERE SOME FINGERPRINTS I THINK THE SECOND  
15 OR THIRD DAY IN -- THE SECOND DAY INTO THE TRIAL OR WHEN  
16 THE I.O. SHOWED UP, I DON'T KNOW WHEN THAT WAS, MAYBE IT  
17 WAS THE THIRD DAY, AND SO I'M OBJECTING TO ALL THIS..

18 SUBMIT IT.

19 THE COURT: IT SEEMS TO ME THERE ARE TWO DIFFERENT  
20 ISSUES. ONE IS WHETHER A FAIR COMPARISON SHOULD BE MADE  
21 NOW BECAUSE OF THE INADEQUACY OF THE PRINTS IN A.F.I.S.  
22 AND THE BOOKING PRINTS, BUT THAT'S DIFFERENT FROM A  
23 DISCOVERY VIOLATION, MEANING IF THE DISCOVERY ITEMS HAD  
24 BEEN PROVIDED, I DON'T SEE A FURTHER PROBLEM IN MAKING A  
25 COMPARISON NOW.

26 WHY THE DELAY OR WAS THERE A DELAY IN  
27 PROVIDING THE INFORMATION TO MR. FISHER THE PRINTS?

28 MR. LIEBERMAN: I THINK HE WAS AWARE THAT PRINTS  
DID NOT MATCH, BUT -- OR -- I'M NOT GOING TO SAY -- I

1 DON'T KNOW WHAT MS. MILLER TOLD HIM EXACTLY, BUT IT WAS MY  
2 IMPRESSION THAT COUNSEL IS AWARE THAT WE COULDN'T MATCH  
3 PRINTS WITH THE DEFENDANT OR THE PRINTS THAT WE WERE  
4 TRYING TO MATCH WERE INSUFFICIENT TO CREATE A MATCH.

5 HE DID GET THE REPORTS STATING THAT DURING  
6 TRIAL, AND THAT --

7 THE COURT: DURING THE TRIAL OR BEFORE TRIAL? I  
8 MEAN DISCOVERY, AS MR. FISHER HAS INDICATED, IS SUPPOSED  
9 TO BE ACCOMPLISHED 30 DAYS PRIOR TO TRIAL SO THAT IF YOU  
10 INTENDED TO USE THE FINGERPRINTS, THEY WOULD -- THEY  
11 SHOULD BE MADE AVAILABLE AT LEAST FOR EXAMINATION, AND IF  
12 MATCHES WERE MADE OR AT LEAST COMPARISONS MADE AND NO  
13 MATCH ESTABLISHED, THAT MIGHT BE EXONERATING INFORMATION  
14 AND REQUIRED UNDER BRADY.

15 MR. LIEBERMAN: I KNOW THAT HE WAS TOLD THAT WE  
16 DIDN'T MATCH UP THE DEFENDANT.

17 MR. FISHER: NO. EXCUSE ME. I'D LIKE TO INTERJECT  
18 HERE.

19 THE COURT: OKAY.

20 MR. FISHER: BASED ON MY EXPERIENCE OF 30 YEARS  
21 DOING THIS, IF -- IF THEY DON'T MATCH -- IF THERE WAS A  
22 MATCH, I WOULD HAVE THAT INFORMATION. SO I JUST ASSUMED  
23 THERE WASN'T A MATCH.

24 MARNA MILLER NEVER KNEW EITHER WAY, SHE  
25 DIDN'T KNOW ANYTHING ABOUT THE FINGERPRINTS. THE ONLY  
26 THING MARNA MILLER, THE FORMER DISTRICT ATTORNEY, KNEW  
27 THERE IS A LINE IN THERE SAYING AN EARL -- A  
28 REPRESENTATIVE FROM SID CAME OUT AND -- LET ME FIND IT

1 HERE.

2 MR. LIEBERMAN: MAY I JUST INTERJECT VERY BRIEFLY  
3 JUST FOR A SECOND?

4 THE COURT: WELL, LET HIM FINISH.

5 MR. FISHER: NOTIFIED SID LATENT PRINT SECTION T.  
6 EARLS, BADGE NUMBER, RESPONDED AND TOOK PRINTS OF THE  
7 CRIME SCENE AND EVIDENCE RECOVERED BY OFFICERS. NO --  
8 MISS MILLER DIDN'T KNOW ANYTHING OTHER THAN THAT.

9 AND AS WE KNOW, IF IT WASN'T FOR ME BEING  
10 SO PERSISTENT AT THE BEGINNING OF THE TRIAL AND ASKING THE  
11 DISTRICT ATTORNEY TO GO INTO THIS T. EARLS' WORK PLACE AND  
12 WHEREVER HIS FILES ARE, WE STILL WOULDN'T HAVE IT.

13 YOU KNOW, JUDGE, WE STILL DON'T HAVE -- WE  
14 STILL DON'T HAVE IT, EVEN THOUGH THIS PRINT EXPERT IS  
15 HERE, BECAUSE I LOOKED AT THE REPORTS, AND THERE'S NOTHING  
16 IN THE REPORTS TO INDICATE, AT LEAST THE REPORTS I'VE BEEN  
17 GIVEN, THAT THERE WAS ANY KIND OF COMPARISON MADE.

18 SO IT SOUNDS LIKE WHAT'S HAPPENING IS, AND  
19 MAYBE I'M JUMPING THE GUN HERE, IS THAT THE COUNSEL IS  
20 BRINGING THE LATENT EXPERT IN NOW TO DO THE WORK THAT  
21 WASN'T DONE BY T. EARLS, WHO IS ON VACATION, WE KNOW, OR  
22 TO TRY AND GET SOME SORT OF NEW EVIDENCE AND NEW READING  
23 OF WHAT T. EARLS HAS ALREADY DONE TO TRY AND SHOW THAT  
24 MR. -- MR. -- THE DEFENDANT'S PRINTS WERE IN FACT THERE.

25 BUT IN ANY EVENT, I JUST -- I WOULD LIKE  
26 TO HAVE AN EXPERT LOOK AT THE COMPUTER PRINTS AND THE --  
27 AND THE BOOKING PRINTS AND ALL THIS NOW, IT'S A CLEAR  
28 VIOLATION OF THE 30-DAY DISCOVERY RULE.



1 MR. LIEBERMAN: YOUR HONOR, WHEN I GOT THE CASE, I  
2 WAS ADVISED THAT NO PRINT HAD BEEN -- THAT THERE WAS NO  
3 POSITIVE MATCH. WE HAD NO INTENT TO CALL ANY PRINT  
4 WITNESSES BECAUSE WE HAD NO REASON TO BELIEVE THAT ANY  
5 PRINT WITNESS WOULD HELP US.

6 IN FACT, I THINK I EVEN SAID AT THE  
7 BEGINNING OF THIS TRIAL THAT I WAS GOING TO CALL A PRINT  
8 WITNESS TO TESTIFY TO THE LACK OF PRINTS ON THE GUN AND  
9 THAT WAS IT. SO WE HAD NO INTENT TO CALL ANYBODY TO SHOW  
10 ANY TYPE OF MATCH. THE ONLY THING THAT THE DEFENSE WASN'T  
11 PROVIDED THAT HE SHOULD HAVE BEEN PROVIDED WOULD BE THE  
12 REPORTS THEMSELVES WITH RESPECT TO THE PRINTS LIFTED IN  
13 THE INTERIOR OF THE RESIDENCE BY EARLS, WHO IS ON  
14 VACATION, SHOWING WHERE THE PRINTS WERE LIFTED, AND THE  
15 ONLY RELEVANCE THAT HAS IS TO SHOW THAT THERE WERE PRINTS  
16 FOUND THERE THAT DIDN'T COME UP WITH A MATCH. IT DIDN'T  
17 CAUSE A MATCH.

18 SO THAT'S THE ONLY RELEVANCE THAT THAT  
19 WOULD HAVE, AND THAT WAS THE ONLY THING HE WASN'T GIVEN  
20 WAS THAT ACTUAL REPORT.

21 NOW, WHAT'S HAPPENING NOW IS BECAUSE  
22 COUNSEL WANTED THOSE REPORTS, WE GOT THOSE REPORTS, AND  
23 BECAUSE COUNSEL WANTED A WITNESS TO COME IN AND TESTIFY  
24 REGARDING THOSE REPORTS, I CAUSED A WITNESS TO COME IN  
25 HERE TO TESTIFY TO THAT.

26 THE ONLY THING THAT -- THAT'S NOW HAPPENED  
27 THAT'S ANY DIFFERENT THAT COUNSEL DOESN'T LIKE IS THAT  
28 THERE'S THE OPPORTUNITY NOW TO ROLL THE DEFENDANT AND GET



1 GOOD PRINTS TO MAKE A COMPARISON WITH THAT MAY OR MAY NOT  
2 CAUSE A MATCH. SO WE MAY BE ARGUING OVER NOTHING.

3 MR. SALONGA IS HERE.. HE ADVISED ME THIS  
4 MORNING THAT THERE HAVE BEEN TWO COMPARISONS DONE ALREADY,  
5 ONE WITH THE A.F.I.S. PRINT, WHICH THE COURT HAS ALREADY  
6 LOOKED AT THAT ONE SHEET OF PAPER THAT SAID NO MATCH ON  
7 A.F.I.S.

8 THE COURT: RIGHT.

9 MR. LIEBERMAN: BUT THAT WAS DONE, AND THERE WAS  
10 ANOTHER ONE DONE WITH THE DEFENDANT'S BOOKING PRINTS LAST  
11 NIGHT BY A DIFFERENT WITNESS, NOT MR. SALONGA, BUT HE WAS  
12 ADVISED IT HAD BEEN DONE AND ALSO NO MATCH.

13 HE SAID THAT HE WANTS TO DO -- HE WANTS TO  
14 ROLL THE DEFENDANT THIS MORNING FOR ONE REASON OR ACTUALLY  
15 TWO REASONS. FIRST IS THAT BOTH THE A.F.I.S. PRINTS IN  
16 THE DATA BANK AND THE DEFENDANT'S BOOKING PRINTS ARE VERY  
17 POOR QUALITY, AND THAT THAT MAY BE ONE REASON WHY THEY  
18 CAN'T MAKE A MATCH.

19 NOW, OBVIOUSLY IT MAY NOT BE A MATCH  
20 BECAUSE IT MAY BE -- TWO DIFFERENT PEOPLE MAY HAVE MADE  
21 THOSE PRINTS AND THERE MAY BE -- AND THEY MAY EXONERATE  
22 THE DEFENDANT WITH RESPECT TO THAT ISSUE. NOT IN THE  
23 CASE, I DON'T THINK, BUT IT MAY BE HELPFUL FOR THE  
24 DEFENSE, LET'S SAY THAT.

25 SO WE WANT TO BE ABLE TO DO THAT, AND I  
26 DON'T THINK THAT THE PEOPLE SHOULD BE PROHIBITED FROM  
27 DOING THAT AT THIS POINT BASED UPON EVERYTHING THAT WE  
28 KNOW.

1 THE SECOND THING IS THAT THERE IS NO PALM  
2 PRINT BY THE DEFENDANT IN THE SYSTEM, EITHER IN A.F.I.S.  
3 OR AT THE TIME OF BOOKING, AND THEY RECOVERED PALM PRINTS,  
4 SO HE WOULD BE SEEKING TO GET THE PALM PRINT FROM THE  
5 DEFENDANT TODAY TO DETERMINE WHETHER OR NOT THE PALM PRINT  
6 MATCHES.

7 NOW, THAT'S THE ONLY REAL NEW EVIDENCE  
8 THAT WE WOULD BE SEEKING TO DO OR ANY NEW INVESTIGATION, I  
9 GUESS, WOULD BE GETTING THE PALM PRINT ITSELF, BUT  
10 EVERYTHING ELSE IS JUST TRYING TO GET BETTER QUALITY  
11 INFORMATION THAN WE ALREADY HAD, AND AGAIN IT COULD INURE  
12 TO THE DEFENDANT'S BENEFIT IF THE BETTER PRINTS ARE DONE  
13 AND THAT COMES BACK NEGATIVE.

14 SO WHAT I THINK IS HAPPENING HERE IS THAT  
15 DEFENSE JUST DOESN'T WANT TO ROLL THE DICE AND FIND OUT.  
16 IT COULD HELP HIM, IT COULD HURT HIM.

17 SO ANYWAY --

18 MR. FISHER: NO, THAT'S NOT WHAT I'M CONCERNED  
19 ABOUT. I'M CONCERNED ABOUT WHAT I SAID IN MY OPENING  
20 STATEMENT WITH RESPECT TO THE FINGERPRINTS, RELYING ON THE  
21 FACT THAT THERE WAS NO MATCH AND, JUDGE, TO THIS MINUTE I  
22 HAVE NOT SEEN ANY FINGERPRINTS. IF I HAD FINGERPRINTS 30  
23 DAYS BEFORE TRIAL, I WOULD HAVE GOTTEN A RETIRED SID  
24 EXPERT FROM THE SHERIFF'S DEPARTMENT OR LAPD, WHICH WE  
25 HAVE ON THE PANEL, TO LOOK AT THESE FINGERPRINTS, TO LOOK  
26 AT THE RIDGES, TO SEE IF IN FACT THIS IS A GENUINE REASON  
27 TO TRY AND REPRINT HIM BECAUSE THEY'RE NOT GOOD ENOUGH,  
28 WHICH IS JUST SO HARD FOR ME TO BELIEVE THAT THEY WOULD

1 PUT FINGERPRINTS IN THIS A.F.I.S. OR THIS COMPUTER THAT  
2 YOU COULDN'T READ AND NOW THE BOOKING FINGERPRINTS, IT --  
3 BUT THE POINT IS I DON'T HAVE THIS INFORMATION, AND TO  
4 THIS MINUTE I DON'T HAVE IT.

5 THE COURT: YOU WOULD NOT NORMALLY HAVE THE PRINTS,  
6 WOULD YOU? YOU MIGHT HAVE ACCESS TO THEM, BUT YOU  
7 WOULDN'T GET THE PRINTS.

8 MR. FISHER: I WOULD HAVE KNOWN ABOUT THEM, I COULD  
9 HAVE GOTTEN THE PRINTS AND I COULD HAVE GOTTEN AN EXPERT  
10 TO LOOK AT THEM.

11 MR. LIEBERMAN: WELL, THE PRINTS WERE LIFTED, AND  
12 IT WAS MENTIONED IN THE REPORT THAT PRINTS WERE LIFTED. I  
13 UNDERSTAND COUNSEL'S ARGUMENT, BUT IT -- IF IN THE REPORT  
14 IT SAID NO PRINTS WERE LIFTED AND NOW WE'RE SAYING YES,  
15 PRINTS WERE LIFTED, I THINK HE HAS AN ARGUMENT, BUT I  
16 THINK BASICALLY PRINTS WERE LIFTED, AND IT'S NOT LIKE  
17 WE'RE GOING TO BE DISCOVERING OVER PRINTS --

18 MR. FISHER: JUDGE, ALL I CAN DO IS MAKE THE  
19 REPRESENTATION I'VE BEEN TRYING TO GET THIS STUFF FROM  
20 MARNA MILLER. SHE'S BUSY AND SHE HAD TROUBLE GETTING  
21 THINGS THAT I WANTED, BUT SHE GOT MOST OF IT AND WHATEVER,  
22 AND IT WASN'T TURNED OVER 30 DAYS BEFORE TRIAL AND HERE WE  
23 ARE.

24 I'LL SUBMIT IT.

25 THE COURT: I WILL SUSTAIN THE OBJECTION. THE  
26 PROBLEM THEN THOUGH IS WHAT TO DO ABOUT THE PRINTS AND  
27 WHETHER THEY COME IN, WHETHER INFORMATION ABOUT THEM COMES  
28 IN AT ALL, WHETHER THERE'S A -- THERE IS TESTIMONY ABOUT

1 THEM HAVING BEEN LIFTED AND COMPARED AND NO MATCH MADE.

2 MR. FISHER: I DON'T REMEMBER THAT.

3 THE COURT: NO. I SAID WHETHER IT SHOULD COME IN  
4 NOW. I MEAN GIVEN THAT I'M SUSTAINING YOUR OBJECTION TO  
5 THE DISCOVERY VIOLATION, I THINK IN A CASE, ESPECIALLY  
6 INVOLVING A BURGLARY OR A ROBBERY OF A RESIDENCE WHERE  
7 PRINTS HAVE BEEN FOUND AND THE DEFENSE COUNSEL GETS A  
8 REPORT THAT THERE IS NO MATCH, THAT IT'S STORMING IN  
9 THROUGH THE BACK DOOR TO SAY NOW WE'RE GOING TO FIND OUT  
10 WHETHER THERE IS IN FACT A MATCH WITH THE DEFENDANT.

11 I DON'T THINK YOU CAN DO THAT, AND THAT'S  
12 WHY THERE'S A DISCOVERY PROVISION. SO I RECOGNIZE THAT  
13 THERE IS A PROBLEM WHEN CASES ARE HANDED OFF AND THEY'RE  
14 NOT PROPERLY PREPARED, BUT THAT'S THE RESPONSIBILITY OF  
15 THE D.A.'S OFFICE, SO THE OBJECTION IS SUSTAINED.

16 WHAT WOULD EITHER SIDE WANT BROUGHT IN NOW  
17 WITH REGARD TO WHETHER PRINTS WERE TAKEN? I MEAN WE'VE  
18 HAD TESTIMONY ABOUT THE GUN AND HOW IT WAS HANDLED AND IN  
19 SOME CASES PRESERVED FOR PRINTS. WE DON'T HAVE ANY  
20 TESTIMONY YET THAT ANY PRINTS WERE ACTUALLY LIFTED FROM  
21 THE GUN FOR COMPARISON OR FROM THE RESIDENCE, AS I RECALL.

22 SO WHAT IS BEING REQUESTED AT THIS POINT  
23 FROM EITHER SIDE ABOUT PRINTS BEING LIFTED AND PRINTS  
24 BEING COMPARED AND NO MATCH BEING MADE, ANY ONE OF THOSE  
25 THREE?

26 MR. LIEBERMAN: IT LOOKS LIKE -- ARE YOU A WITNESS,  
27 MA'AM?

28 MR. FISHER: EXCUSE ME. THIS IS MISS BROWN. I'M

1 SORRY.

2 MISS BROWN, WOULD YOU JUST WAIT OUTSIDE  
3 FOR A MINUTE. WE'LL GET TO YOU SHORTLY. I'M SORRY.

4 THE COURT: I THINK THE JURY IS TELLING US THAT  
5 THEY'RE HERE, SO THEY ARE HERE AND WE KNOW IT. OKAY.

6 SO WHAT'S THE FINAL THING? I JUST NEED TO  
7 KNOW WHAT'S GOING ON SO THAT BOTH SIDES ARE PREPARED TO  
8 MEET WHATEVER EVIDENCE IS BEING OFFERED.

9 WHAT MORE WOULD BE OFFERED? ANYTHING MORE  
10 EITHER ONE OF YOU WANT? ANYTHING MORE ABOUT PRINTS COMING  
11 IN?

12 MR. LIEBERMAN: WELL, I WAS JUST GOING TO CALL  
13 MR. SALONGA TO TESTIFY THAT HE EXAMINED THE GUN, THAT  
14 THERE WERE PARTIAL PRINTS LIFTED BUT THEY WERE INADEQUATE  
15 OR INSUFFICIENT TO MATCH WITH ANYBODY, AND THAT'S NOT  
16 UNCOMMON. IT'S HARD TO GET PRINTS OFF OF A GUN. THAT'S  
17 WHAT I WANT TO CALL HIM TO TESTIFY REGARDING.

18 IT WAS MY UNDERSTANDING THAT THE DEFENSE  
19 WANTED TO CALL HIM TO TESTIFY REGARDING WHAT EARLS DID,  
20 AND I GUESS THE DEFENSE IS ENTITLED TO GO THROUGH THE  
21 BUSINESS RECORD EXCEPTION AND HAVE HIM TESTIFY THAT EARLS  
22 MADE A RECORD OF THE FACT THAT PRINTS WERE LIFTED FROM A  
23 CERTAIN LOCATION, AND I GUESS IF HE WANTS TO GO ONE STEP  
24 FARTHER AND SAY A MATCH WAS DONE AND -- OR THE COMPARISON  
25 WAS DONE ONCE AND/OR TWICE, THEN I THINK HE OPENS THE DOOR  
26 AT LEAST TO ALLOW ME TO ASK THE QUESTION OF THE WITNESS  
27 ABOUT THE QUALITY OF THE PRINTS THAT WERE INVOLVED IN THE  
28 COMPARISON AND WOULD BETTER QUALITY PRINTS GIVE YOU A

1 BETTER OPPORTUNITY TO MAKE A BETTER EVALUATION, AND WE CAN  
2 LEAVE IT AT THAT, I GUESS, WITHOUT DOING ANY FURTHER  
3 EVALUATION.

4 I THINK THAT WOULD BE --

5 THE COURT: WHAT I WANTED FROM YOU IS WHAT YOU WANT  
6 TO OFFER, AND RIGHT NOW YOU'RE TALKING ABOUT THE FACT THAT  
7 PRINTS WERE LIFTED FROM THE GUN THAT WERE INSUFFICIENT FOR  
8 COMPARISON, AND THAT'S NORMAL.

9 MR. LIEBERMAN: YES.

10 THE COURT: AND THAT'S ALL YOU WANT TO OFFER?

11 MR. LIEBERMAN: YES.

12 THE COURT: OKAY. WHAT DOES THE DEFENSE WANT TO  
13 OFFER ON THE ISSUE OF PRINTS?

14 MR. FISHER: WELL, I THINK I'LL JUST LEAVE IT ALONE  
15 AND JUST RELY ON THE STATE OF THE EVIDENCE THE WAY IT IS  
16 RIGHT NOW.

17 THE COURT: OKAY. THAT'S FINE. THAT MEANS I  
18 SUSTAIN THE OBJECTION ABOUT DISCOVERY VIOLATION AND WOULD  
19 NOT ALLOW CURRENT COMPARISONS TO BE MADE. IT'S FAR TOO  
20 LATE WITH EVIDENCE, SO CONVINCING AS FINGERPRINTS.

21 I MEAN THERE ARE CASES THAT -- APPELLATE  
22 CASES THAT SAID THE MOST COMPELLING EVIDENCE IS  
23 FINGERPRINTS, MUCH BETTER THAN EYEWITNESS IDENTIFICATIONS,  
24 SO OKAY. THAT'S -- I THINK THAT'S FAIR.

25 MR. LIEBERMAN: OKAY.

26 MR. FISHER: AND I HAVE MS. BROWN MY WITNESS HERE,  
27 YOUR HONOR.

28 THE COURT: OKAY.

1 MR. FISHER: AND --

2 THE COURT: DID YOU NEED TO TAKE HER OUT OF ORDER  
3 OR WHERE ARE WE GOING NEXT WITH THE EVIDENCE?

4 MR. LIEBERMAN: OKAY. I JUST HAVE ONE QUESTION.

5 THE COURT: OKAY.

6 MR. LIEBERMAN: DURING CLOSING I DON'T THINK THERE  
7 IS ANY EVIDENCE SO FAR IN THE RECORD THAT PRINTS WERE  
8 COMPARED, JUST THAT PRINTS WERE LIFTED FROM -- THAT THEY  
9 DUSTED FOR PRINTS. IT'S MY UNDERSTANDING THAT'S THE STATE  
10 OF THE EVIDENCE, THEY DUSTED FOR PRINTS IN THE INTERIOR OF  
11 THE HOUSE, WHICH IS -- THAT'S MY UNDERSTANDING OF THE  
12 STATE OF THE EVIDENCE.

13 THE COURT: WHO TESTIFIED TO THAT? I DON'T  
14 REMEMBER.

15 MR. LIEBERMAN: I THINK COUNSEL ASKED THE POLICE  
16 OFFICERS OR THE -- I THINK HE ASKED THE CIVILIANS IF THEY  
17 SAW PEOPLE GOING IN AND DUSTING FOR PRINTS.

18 MR. FISHER: IT WAS THE LAST POLICE OFFICER, THE  
19 ONE -- THE ONE THAT DETAINED.

20 MR. LIEBERMAN: I THINK, YES, IT WAS A POLICE  
21 OFFICER AND I THINK ALSO FAMILY MEMBERS, THAT PEOPLE WERE  
22 GOING IN AND DUSTING, AND DUSTING WAS DONE OF CERTAIN  
23 ARTICLES, AND I THINK THE POLICE OFFICER WAS SAYING THAT  
24 CERTAIN ARTICLES WERE DUSTED AND THE FAMILY WAS SAYING  
25 THAT THEY WENT IN TO DO SOME DUSTING.

26 I THINK THAT'S THE STATE OF THE EVIDENCE,  
27 SO I JUST -- I DON'T THINK I'M WRONG ABOUT THAT, SO I  
28 WOULD BE OBJECTING IF COUNSEL IS SAYING THERE WAS NO MATCH



1 BECAUSE THERE'S NO EVIDENCE OF THAT.

2 MR. FISHER: WAIT A MINUTE, JUDGE. I -- THEIR --  
3 THEY HAVE THE BURDEN OF PROOF IN THIS CASE, AND I CAN  
4 ARGUE ABSENT FINGERPRINTS, IF HE HAD FINGERPRINTS THAT  
5 MATCHED MR. -- MR. MORRIS, HE WOULD HAVE THEM HERE TODAY,  
6 AND I THINK I'M ENTITLED TO ARGUE THAT.

7 MR. LIEBERMAN: BUT THAT'S -- BUT I THINK THAT  
8 THAT'S -- THERE IS NO EVIDENCE THAT THERE WERE PRINTS THAT  
9 WERE USABLE THAT WERE LIFTED, AND SO I THINK IF THERE --  
10 IF THAT WAS THE CASE, THEN I THINK THE DEFENSE WOULD HAVE  
11 THE OPPORTUNITY TO DO THAT.

12 RIGHT NOW THERE IS NO FOUNDATION  
13 ESTABLISHED THAT THERE WERE PRINTS THAT WERE USABLE THAT  
14 WERE LIFTED AND FOR A COMPARISON, AND I THINK THAT UNTIL  
15 THERE'S--- UNTIL THAT IS ESTABLISHED, I DON'T THINK  
16 DEFENSE CAN ARGUE THAT IF THE PEOPLE HAD GOOD PRINTS, THEY  
17 COULD BRING THEM IN, OR IF THE PEOPLE HAD A MATCH, THEY  
18 WOULD BE -- THEY WOULD BE PRESENTING IT.

19 I'LL SUBMIT.

20 THE COURT: THE QUESTION I THINK IS WHETHER IT  
21 SHOULD BE LEFT TO ARGUMENT THAT ON THE DEFENSE SIDE THAT  
22 IF THE PROSECUTION HAD PRINT COMPARISON SHOWING THE  
23 DEFENDANT WAS IN THE RESIDENCE, THEY WOULD OFFER THAT, AND  
24 ON THE PROSECUTION'S SIDE THERE IS NO EVIDENCE THAT ANY  
25 PRINTS WERE ACTUALLY RECEIVED OR PICKED UP THAT WERE  
26 POSSIBLE OF COMPARISON, THAT WOULD ALLOW A COMPARISON.

27 IT MAY BE LEFT FOR ARGUMENT BECAUSE THAT  
28 IS THE STATE OF THE CASE RIGHT NOW. I DON'T RECALL THE



1 SUBJECT OF DUSTING FOR PRINTS AT THE TIME.

2 MR. FISHER: WELL, THE POLICE OFFICER DID, I  
3 RECALL.

4 THE COURT: THAT'S FINE. WHATEVER IS IN THE  
5 RECORD.

6 MR. FISHER: SO MR. LIEBERMAN CAN ARGUE HIS SIDE  
7 AND I CAN ARGUE MINE.

8 THE COURT: RIGHT.

9 MR. LIEBERMAN: OKAY.

10 MR. FISHER: IT'S FOR ARGUMENT.

11 THE COURT: THE DEFENSE ARGUMENT IF THERE WAS A  
12 POSITIVE MATCH, THE PROSECUTION WOULD HAVE BROUGHT THE  
13 PRINTS IN.

14 MR. FISHER: RIGHT. AND MR. LIEBERMAN CAN SAY --

15 THE COURT: AND THE PROSECUTION'S ARGUMENT IS THERE  
16 IS NO EVIDENCE THAT THEY WERE GOOD ENOUGH FOR COMPARISON,  
17 AND YOU CAN TALK ABOUT, WITH YOUR WITNESS ON THE GUN, WHAT  
18 IT TAKES TO MAKE A SUFFICIENT PRINT FOR COMPARISON.

19 MR. LIEBERMAN: OKAY. AND I'M -- NOT TO BELABOR IT  
20 BUT JUST TO FINISH, IS I THINK I WOULD BE ABLE TO ARGUE  
21 THAT WITH RESPECT TO THE LIFTS, THAT THERE IS NO EVIDENCE  
22 THAT THE LIFTS WERE SUFFICIENT TO BE COMPARED AND THERE IS  
23 NO EVIDENCE THAT WHAT WE WERE COMPARING IT TO WAS  
24 SUFFICIENT TO BE COMPARED WITH ANY LIFTS, THAT THE RECORD  
25 IS SILENT ON THAT.

26 THE COURT: THERE IS NO EVIDENCE ONE WAY OR THE  
27 OTHER.

28 MR. LIEBERMAN: YES.

1 THE COURT: BUT THE MAIN THING IS TO SHOW THAT IT  
2 DOES TAKE A CERTAIN NUMBER OF CHARACTERISTICS ON A PRINT  
3 FOR A POSSIBLE COMPARISON.

4 MR. LIEBERMAN: OKAY. THAT'S FINE.

5 THE COURT: YES.

6 MR. FISHER: THAT'S FINE, YOUR HONOR.

7 THE COURT: ARE WE READY TO GO WITH WHAT WITNESS?  
8 YOUR PRINT EXPERT FIRST?

9 MR. LIEBERMAN: GO AHEAD.

10 MR. FISHER: DO YOU MIND IF WE TAKE MISS BROWN --

11 THE COURT: SHE'D BE TESTIFYING TODAY ANYWAY.

12 MR. LIEBERMAN: I WOULD MIND, ACTUALLY, BECAUSE I  
13 HAVE A PILOT HERE OF THE HELICOPTER THAT I WOULD LIKE TO  
14 CALL AND GET HIM OFF.

15 MR. FISHER: THAT'S FINE. CAN WE CALL MS. BROWN  
16 OUT OF ORDER?

17 MR. LIEBERMAN: WELL, FINE. I DON'T THINK THE  
18 FINGERPRINT WITNESS IS GOING TO TAKE VERY LONG, AND I'D  
19 LIKE TO GET HIM OUT OF HERE.

20 MR. FISHER: OKAY. ALL RIGHT.

21 THE COURT: OKAY.

22 MR. FISHER: WE'LL JUST CALL MISS BROWN IN ORDER  
23 THEN.

24 THE COURT: OKAY. LET'S --

25 MR. LIEBERMAN: I'M NOT TRYING TO BE DIFFICULT.

26 MR. FISHER: I KNOW, I KNOW.

27 MR. LIEBERMAN: IT'S THEY ALL HAVE WORK TO DO AND I  
28 DON'T KNOW WHAT MISS BROWN HAS TO DO TODAY.

1 THE WITNESS: I DO.

2 THE CLERK: THANK YOU. PLEASE BE SEATED.

3 PLEASE STATE AND SPELL YOUR NAME FOR THE  
4 RECORD.

5 THE WITNESS: MY NAME IS CONRADO, C-O-N-R-A-D-O,  
6 SALONGA, S-A-L-O-N-G-A.

7 THE COURT: THANK YOU.

8 PEOPLE MAY INQUIRE.

9 MR. LIEBERMAN: THANK YOU.

10  
11 DIRECT EXAMINATION

12  
13 BY MR. LIEBERMAN:

14 Q. SIR, WHAT DO YOU DO FOR A LIVING?

15 A. I AM A FORENSIC PRINT SPECIALIST OF THE  
16 LOS ANGELES POLICE DEPARTMENT SCIENTIFIC INVESTIGATION  
17 DIVISION LATENT PRINT SECTION.

18 Q. WHAT ARE YOUR JOB DUTIES?

19 A. MY DUTIES ARE THE FOLLOWING: I RESPOND TO  
20 CRIME SCENE TO PROCESS THE SAID LOCATION FOR LATENT PRINT.  
21 LATENT PRINT ARE PRINTS THAT ARE HIDDEN AND NEEDS TO BE  
22 DEVELOPED AND ENHANCED. I SOMETIMES CALL THIS CRIME SCENE  
23 PRINTS.

24 I ALSO COMPARE LATENT PRINT WITH A KNOWN  
25 PRINT OF A POSSIBLE SUSPECT. ALSO I INPUT LATENT PRINT ON  
26 THE AUTOMATED FINGERPRINT IDENTIFICATION SYSTEM, AND I  
27 TESTIFY IN COURT REGARDING MY FINDINGS.

28 Q. HOW LONG HAVE YOU BEEN DOING THIS?

1 A. I HAVE BEEN DOING THIS FOR MORE THAN 25  
2 YEARS.

3 Q. AND WHAT WAS YOUR TRAINING IN ORDER TO DO  
4 THIS?

5 A. I HAVE PREVIOUS TRAINING REGARDING  
6 FINGERPRINT. I'VE ATTENDED SEVERAL SEMINARS REGARDING  
7 FINGERPRINT. I HAVE A BACHELOR'S DEGREE IN CRIMINOLOGY,  
8 AND I AM ALSO A CERTIFIED LATENT PRINT EXAMINER.

9 Q. OKAY. AT SOME POINT DID YOU EXAMINE A  
10 SEMIAUTOMATIC COLT .380 CALIBER HANDGUN?

11 A. YES.

12 Q. AND WHAT WAS THE SERIAL NUMBER OF THAT --  
13 OF THE HANDGUN THAT YOU EXAMINED?

14 A. MAY I REVIEW MY RECORDS?

15 THE COURT: YES.

16 THE WITNESS: THE GUN THAT I EXAMINED HAS A SERIAL  
17 NUMBER AS FOLLOWS: M AS IN MARY, U AS IN UNION, 41546.

18 BY MR. LIEBERMAN:

19 Q. OKAY. I'M SHOWING YOU WHAT'S BEEN MARKED  
20 AS PEOPLE'S NO. 15 FOR IDENTIFICATION.

21 DO YOU RECOGNIZE WHAT THIS IS?

22 A. THAT'S THE -- THAT'S THE PICTURE OF THE  
23 GUN THAT I EXAMINED.

24 Q. OKAY. IS THERE A SERIAL NUMBER ON THIS  
25 GUN?

26 A. YEAH. IT'S A SERIAL NUMBER.

27 Q. MU41546?

28 A. THAT'S CORRECT.

1 Q. AND WHAT DID YOU DO IN ORDER TO EXAMINE  
2 THAT GUN?

3 A. MAY YOU REPEAT THE QUESTION, PLEASE.

4 Q. WHAT DID YOU DO WHEN YOU EXAMINED THAT  
5 GUN?

6 A. THE PROCESS OF EXAMINING GUNS ARE AS  
7 FOLLOWS: WE USE A CHEMICAL PROCESS CALLED GLUING. WE USE  
8 A REGULAR SUPER GLUE. WE PUT IT IN THE CHAMBER, HIT IT OF  
9 THE PERSPIRATION OF THE HAND AND IT WILL FORMALIZE THE  
10 PRINT. IT WILL MAKE THE PRINT PERMANENT ON THE ITEM.

11 THEN AFTER THAT WE WILL EXAMINE THE GUN  
12 FOR THE PRESENCE OF FINGERPRINT AFTER THAT PROCESS. THEN  
13 WE TRY TO ENHANCE THE FINGERPRINT THAT WE DEVELOP BY USING  
14 RUBIDIUM, AND THEN WE USE THE ALTERNATE LIGHT SOURCE. IF  
15 THERE IS A GOOD PRINT THAT WE CAN -- THAT YOU CAN USE FOR  
16 COMPARISON PURPOSES, THE LIGHT SOURCE WILL FLUORESCENCE THE  
17 LATENT PRINT.

18 Q. OKAY. DID YOU DO THAT ON THIS GUN?

19 A. YES, SIR.

20 Q. WERE YOU ABLE TO DISCOVER OR FIND OR  
21 LOCATE ANY PRINTS?

22 A. YES, SIR.

23 Q. DESCRIBE THE QUALITY OF THE PRINTS THAT  
24 YOU WERE ABLE TO FIND.

25 A. WHAT I DEVELOPED ON THE GUN WAS SMUDGES,  
26 OVERLAPPING PRINTS, PRINTS THAT COULD NOT BE USED FOR  
27 COMPARISON. IT IS NOT COMPARABLE PRINTS.

28 Q. YOU SAID YOU FOUND SMUDGES AND OVERLAPPING

1 PRINTS?

2 A. YES, SIR.

3 Q. AND WHY CAN'T THEY BE USED?

4 A. BECAUSE OF THE POOR QUALITY OF THE PRINT.  
5 WE HAVE CERTAIN THING THAT WE LOOK ON A LATENT PRINT THAT  
6 WE DEVELOP, WHETHER WE DETERMINE -- FIRST WHETHER IT IS  
7 COMPARABLE OR WITH A QUALITY PRINT, AND THE ONE THAT I  
8 DEVELOPED ON THIS PARTICULAR GUN ARE NOT GOOD PRINTS. IT  
9 COULD NOT BE USED FOR COMPARISON PURPOSES.

10 Q. HOW MANY PRINTS OR PARTIAL PRINTS OR  
11 SMUDGES WERE YOU ABLE TO FIND?

12 A. I CANNOT REMEMBER.

13 Q. MORE THAN ONE?

14 A. MORE THAN ONE.

15 Q. IN ORDER TO MAKE A POSITIVE MATCH OF  
16 PRINTS, WHAT IS REQUIRED?

17 A. WHEN I DO A COMPARISON ON A CERTAIN  
18 PORTION OR LATENT PRINT OR A CRIME SCENE PRINT, I AM  
19 TRYING TO DETERMINE THE FOLLOWING: THE DIRECTION AND FLOW  
20 OF THE RIDGES FOLLOWING THE FINGERS AND PALM, THE GENERAL  
21 PATTERN OF THE FINGERPRINT OR PALM, THE RIDGE, THE  
22 PRESENCE OF THE RIDGE CHARACTERISTICS ON THAT SPECIFIC  
23 PRINT, THE RELATIONSHIP OF THE RIDGE DETAILS, RIDGE  
24 CHARACTERISTIC WITH EACH OTHER AND THE RIDGE INTERVENING  
25 PRESENT BETWEEN TWO RIDGE DETAILS, AND, OF COURSE, THE  
26 LAST ONE IS THE QUALITY AND THE CLARITY OF THE PRINT.

27 Q. OKAY. BEFORE YOU SAID QUALITY AND  
28 CLARITY, YOU SAID SOMETHING, I DIDN'T UNDERSTAND. IT WAS

1 AFTER YOU SAID THE RELATIONSHIP OF THE RIDGES, THE RIDGES  
2 AND THEIR CHARACTERISTICS.

3 WHAT WAS THAT NEXT ONE THAT YOU SAID?

4 LET ME REPEAT. YOU DISCUSSED THE  
5 DIRECTION AND FLOW OF RIDGES, RIDGE CHARACTERISTICS, THE  
6 RELATIONSHIP OF THE RIDGES TO EACH OTHER AND THE QUALITY  
7 AND CLARITY OF THE RIDGES.

8 A. YES. AND THE -- AND THE NUMBER OF RIDGE  
9 INTERVENING WITH TWO RIDGE DETAILS.

10 Q. THE NUMBER OF RIDGES?

11 A. INTERVENING. INTERVENING. THE NUMBER OF  
12 RIDGE INTERVENING.

13 Q. INTERVENING?

14 A. YEAH, INTERVENING. ONE RIDGE HERE AND  
15 THEN ONE RIDGE HERE, AND THERE WILL BE THREE OR FOUR LINES  
16 THAT WILL MAKE A GENERAL LINE. THAT'S WHAT WE CALL THE  
17 NUMBER OF RIDGE INTERVENING BETWEEN TWO RIDGE DETAIL OR  
18 CHARACTERISTICS.

19 Q. OKAY. NOW, IN ORDER TO MAKE A POSITIVE  
20 MATCH -- LET ME REPHRASE.

21 YOU WERE JUST TALKING ABOUT THE LATENT  
22 PRINTS, THE PRINTS THAT ARE LIFTED FROM THE ARTICLE,  
23 CORRECT?

24 A. THAT'S CORRECT.

25 Q. NOW, YOU HAVE TO MATCH THOSE LATENT PRINTS  
26 OR THE LIFTED PRINTS WITH A KNOWN SAMPLE; IS THAT CORRECT?

27 A. THAT'S CORRECT.

28 Q. AND WHEN YOU'RE COMPARING THE LIFT THAT



1 ARE LATENT PRINTS WITH THE KNOWN SAMPLE, DOES THE QUALITY  
2 OF THE KNOWN SAMPLE COME INTO PLAY IN ANY WAY?

3 A. THAT IS VERY IMPORTANT. THE PRINT, THE  
4 STANDARD PRINT OR THE EXEMPLAR PRINT MUST BE CLEARLY  
5 TAKEN. SOMETIMES WE EXPERIENCE IN AN INEXPERIENCED JAILER  
6 OR FINGERPRINT PERSON TOOK THE SET OF TEN PRINTS, THE  
7 FINGERPRINT INMATE CARDS, SOMETIMES WE NEED SOME AREAS FOR  
8 COMPARISON OR SOMETIMES IT BECOMES SMUDGY, THEY PUT TOO  
9 MUCH INK ON THE PRINT.

10 MR. FISHER: YOUR HONOR, MAY WE APPROACH, PLEASE?

11 THE COURT: ALL RIGHT.

12  
13 (THE FOLLOWING PROCEEDINGS WERE HELD  
14 AT THE BENCH:)

15  
16 MR. FISHER: I THINK I HAVE AN IDEA WHERE THIS IS  
17 GOING, THAT HE'S GOING TO TESTIFY THAT HE COULDN'T GET --  
18 WELL, HE'S GOING TO PUT OUT BEFORE THE JURY THAT  
19 MR. MORRIS' EXEMPLAR AND THE COMPUTER PRINTOUT --

20 THE COURT: HE'S DOING JUST WHAT I SAID, THAT HE'S  
21 EXPLAINING THAT YOU'VE GOT TO HAVE CERTAIN THINGS FOR  
22 COMPARISON.

23 MR. LIEBERMAN: I WASN'T GOING TO ASK HIM ANYTHING  
24 IN PARTICULAR REGARDING THE QUALITY OF MR. MORRIS' PRINTS.

25 MR. FISHER: OKAY. I JUST -- OKAY. THAT'S FINE.

26 ////

27 ////

28 ////

1 (THE FOLLOWING PROCEEDINGS WERE  
2 HELD IN OPEN COURT IN THE PRESENCE  
3 OF THE JURY:)

4  
5 BY MR. LIEBERMAN:

6 Q. OKAY. I'M SORRY. DID YOU FINISH YOUR  
7 RESPONSE?

8 A. COULD YOU REPEAT THE LAST QUESTION?

9 THE COURT: YOU WANT US TO READ IT BACK?

10 THE WITNESS: COULD YOU, YOUR HONOR? COULD YOU  
11 REPEAT THE LAST QUESTION?

12 THE COURT: OKAY. THE FULL QUESTION IS, "WHEN  
13 YOU'RE COMPARING THE LIFT THAT ARE LATENT PRINTS WITH THE  
14 KNOWN SAMPLE, DOES THE QUALITY OF THE KNOWN SAMPLE COME  
15 INTO PLAY IN ANY WAY?"

16 THE WITNESS: OKAY. YES, I WAS EXPLAINING EARLIER  
17 ABOUT THE STANDARD OR EXEMPLAR PRINTS, THAT IT MUST BE AT  
18 LEAST GOOD QUALITY FOR COMPARISON. THERE MUST BE AN AREA  
19 THAT WE ARE LOOKING FOR. WHEN WE ROLL THE PERSON TO BE  
20 FINGERPRINTED, IT MUST BE NAIL X TO NAIL X, AND THE  
21 DISTRIBUTION OF THE INK MUST BE PROPERLY DISTRIBUTED.

22 SOMETIMES WHEN YOU ROLL IT, THERE IS A  
23 TENDENCY THAT THE PERSON MAY PUT THE PRESSURE WHEN YOU'RE  
24 TRYING TO ROLL IT ON THE IMPRINT AND THEN WHEN YOU ROLL  
25 IT, IT'S GOING TO SMUDGE THE PRINTS. SOMETIMES THOSE  
26 THINGS ARE IN STORE IN OUR RECORDS, WHETHER POLICE RECORDS  
27 OR CRIMINAL RECORDS, AND WHEN WE COME TO THE POINT THAT WE  
28 NEED TO COMPARE THOSE STANDARD PRINTS WITH A QUESTIONED

1 PRINT, SOMETIMES WE HAVE A PROBLEM, NOT WITH THE CRIME  
2 SCENE PRINT BUT WITH THE PRINTS THAT WAS MAINTAINED IN THE  
3 DATA BASE.

4 BY MR. LIEBERMAN:

5 Q. NOW, HAVE YOU EXAMINED, AS PART OF YOUR 25  
6 YEARS OF EXPERIENCE IN THIS AREA, DO YOU REGULARLY EXAMINE  
7 GUNS TRYING TO GET LATENT PRINTS FROM THEM?

8 A. YES, SIR.

9 Q. AND DO YOU -- IS IT UNCOMMON TO HAVE  
10 TROUBLE GETTING USABLE PRINTS FROM HANDGUNS?

11 A. YES. IT'S NOT USUAL TO HAVE PRINTS ON A  
12 GUN.

13 Q. IT'S NOT WHAT?

14 A. IT IS NOT USUAL TO HAVE PRINTS ON THE GUN.

15 Q. IT'S NOT USUAL TO FIND PRINTS?

16 A. YES, THAT'S RIGHT.

17 Q. WHY IS THAT?

18 A. BECAUSE THERE ARE SEVERAL FACTORS THAT A  
19 PRINT COULD BE IMPRESSED ON A CERTAIN ITEMS OF EVIDENCE  
20 LIKE SPECIFICALLY THE GUN. IN A GUN OR A HANDGUN, THERE  
21 IS ONLY SEVERAL SMOOTH SURFACES THAT YOU CAN LEAVE A GOOD  
22 QUALITY PRINT, LIKE THE SLIDE OF THE GUN.

23 USUALLY THE HANDLE OF THE GUN ARE TEXTURED  
24 SO THAT YOU WILL HAVE A GOOD GRIP, SO ON THE GRIP YOU  
25 SELDOM GET PRINTS ON THE GRIP. NOW, WHEN YOU HANDLE THE  
26 SLIDE PORTION OF THE GUN, YOU MAY GET PRINTS, BUT WHEN YOU  
27 TUCK THE GUN ON YOUR SIDE OR PUT THE GUN ON SOMETHING, IT  
28 WILL RUB AND IT WILL OBLITERATE OR DESTROY OR AFFECT THE

1 QUALITY OF THE PRINT THAT YOU HAVE DEVELOPED. THAT'S WHY  
2 WE SELDOM GET GOOD COMPARABLE LATENT PRINT ON GUNS.

3 Q. COULD A -- COULD PRINTS BE OBLITERATED IF  
4 A GUN IS RUBBED AGAINST A PLANT?

5 A. YES, SIR, SURELY.

6 Q. IF A GUN IS FOUND IN A PLANTER AND IT RUBS  
7 AGAINST THE LEAVES WHEN IT'S THROWN IN THERE?

8 A. YES, THERE'S A BIG POSSIBILITY, SIR.

9 MR. LIEBERMAN: I HAVE NO MORE QUESTIONS.

10 THE COURT: CROSS-EXAMINE.

11

12 CROSS-EXAMINATION

13

14 BY MR. FISHER:

15 Q. WERE YOU THE -- THANK YOU, YOUR HONOR.

16 WERE YOU THE SID LATENT PRINT SECTION  
17 REPRESENTATIVE THAT WAS CALLED OUT ON MARCH 4TH, 2005, TO  
18 1806 WEST 42ND STREET REGARDING THIS INCIDENT THAT WE'RE  
19 HERE IN TRIAL ON?

20 A. NO, SIR, I WAS NOT THE ONE.

21 Q. AND WHEN DID YOU EXAMINE THIS GUN?

22 A. THE GUN WAS EXAMINED LAST JULY 26 OF --  
23 TWO DAYS AGO OF THIS YEAR.

24 Q. HAD IT BEEN EXAMINED PRIOR TO THAT?

25 A. TO MY KNOWLEDGE IT WAS NOT EXAMINED PRIOR  
26 TO THAT.

27 MR. FISHER: THANK YOU.

28 I HAVE NOTHING FURTHER, YOUR HONOR.

1 THE COURT: REDIRECT.

2  
3 REDIRECT EXAMINATION

4  
5 BY MR. LIEBERMAN:

6 Q. WHEN YOU EXAMINED THE GUN, WHERE WAS --  
7 HOW DID YOU GET TO YOUR -- LET ME REPHRASE.

8 WAS THE GUN IN SOME PARTICULAR LOCATION  
9 FOR IT TO BE EXAMINED?

10 A. USUALLY IT'S IN OUR PROPERTY DIVISION.

11 Q. HOW DID YOU GET THE GUN TO YOUR LAB?

12 A. THROUGH REQUEST FROM THE PROPERTY OR  
13 SOMETIMES IT IS HAND DELIVERED OR WALKED IN BY THE  
14 DETECTIVE IN THE CASE.

15 Q. OKAY. IN THIS PARTICULAR CASE, DO YOU  
16 KNOW WHETHER OR NOT HOW YOU GOT IT?

17 A. I KNOW HOW I GOT IT. IT WAS WALKED IN BY  
18 A DETECTIVE FRANCO.

19 Q. OKAY. BUT THE GUN HAD BEEN BOOKED  
20 PREVIOUS TO THAT?

21 A. YES. I AM AWARE THAT THE GUN WAS  
22 PREVIOUSLY BOOKED.

23 MR. LIEBERMAN: OKAY. I HAVE NO MORE QUESTIONS.

24 MR. FISHER: I DON'T HAVE ANY QUESTIONS, YOUR  
25 HONOR.

26 THE COURT: THANK YOU. YOU MAY STEP DOWN. YOU ARE  
27 EXCUSED.

28 MR. LIEBERMAN: YOUR HONOR, I HAVE I THINK JUST ONE

1 SO I WANT TO APOLOGIZE ON BEHALF OF OUR  
2 OFFICE. I'M VERY SORRY.

3 AGAIN IF THE COURT NEEDS TO EXCLUDE  
4 CERTAIN THINGS, AGAIN I UNDERSTAND. I THINK OTHER THAN  
5 THAT -- LASTLY, THERE ARE TWO THINGS.

6 THERE ARE SOME FINGERPRINT ANALYSIS  
7 REPORTS, AND COUNSEL AND I HAVE BEEN DISCUSSING THE  
8 FINGERPRINT ISSUE SINCE THE TRIAL BEGAN, AND HE WANTED ME  
9 TO JUST GET THE RESULTS OF THAT. WE HAD TOLD HIM THAT  
10 THERE WERE NO POSITIVE HITS WITH RESPECT TO THE DEFENDANT,  
11 BUT I GOT TWO REPORTS, ONE OF THEM BASICALLY SAYING THAT  
12 THERE WERE NO MAKES ON THE FINGERPRINTS, AND THOSE  
13 FINGERPRINTS WERE LIFTED IN THE INTERIOR PORTION OF THE  
14 HOUSE. AND I'VE GIVEN HIM A COPY OF THAT, OR THERE IS A  
15 COPY HE'S SEEN THAT I WILL PROVIDE. I'LL MAKE A PHOTOCOPY  
16 FOR HIM.

17 MR. FISHER: LET'S TALK ABOUT --

18 MR. LIEBERMAN: LET ME FINISH THIS ONE LAST THING  
19 ON THAT.

20 MR. FISHER: YES.

21 MR. LIEBERMAN: IS THAT IS THERE IS ONE MORE  
22 FINGERPRINT REPORT, AND THAT IS BY SALONGA, S-A-L-O-N-G-A,  
23 AND THAT IS BASICALLY A REPORT CONFIRMING THAT THERE WAS  
24 NO LATENT PRINT OF VALUE DEVELOPED FROM THE FIREARM, AND  
25 SO I'M PROVIDING DEFENSE COUNSEL WITH THAT.

26 I GOT THAT SECOND REPORT BY SALONGA THIS  
27 MORNING, AND THE OTHER ONE I GOT YESTERDAY, AND SO I THINK  
28 I'VE COVERED EVERYTHING.

1 THE COURT: OKAY. MR. FISHER.

2 MR. FISHER: WELL, START WITH THE FINGERPRINTS.

3 THE PROPERTY REPORT INDICATES THAT A TECHNICIAN -- A  
4 TECHNICIAN CAME OUT FROM SID AND -- AND FROM THE REPORT IT  
5 LOOKS LIKE THE TECHNICIAN TOOK PRINTS OF THE CRIME SCENE  
6 AND OTHER EVIDENCE, ITEMS LISTED IN THE PROPERTY REPORT.

7 THERE WAS A BAG OF COCAINE FOUND, THERE  
8 WAS -- THERE WERE SEVERAL OTHER ITEMS SCATTERED AROUND,  
9 AND MY CONCERN IS COUNSEL HAS JUST GIVEN ME THIS SHEET  
10 THAT DOESN'T MAKE ANY REFERENCE TO WHAT -- IT DOESN'T MAKE  
11 REFERENCE TO ANYTHING. IT DOESN'T EVEN MAKE REFERENCE TO  
12 FINGERPRINTS.

13 IT LOOKS LIKE IT HAS SOMETHING TO DO WITH  
14 A STOLEN -- A STOLEN CAR. IT SAYS A REQUEST FOR A.F.I.S.  
15 FROM THE SCIENTIFIC INVESTIGATION DEPARTMENT, SO I  
16 GUESS -- WHAT I THINK IS THAT THEY HAVEN'T GONE DOWN THERE  
17 AND LOOKED FOR THE ANALYST'S FILE, AND WENT THROUGH AND --  
18 THEY HAVEN'T GONE THROUGH IT BECAUSE THE ANALYST IS ON  
19 VACATION.

20 I'VE BEEN TRYING TO GET THE ANALYST FOR  
21 THE LAST FEW DAYS AND WE JUST FOUND OUT HE'S ON VACATION.  
22 HE'S NOT GOING TO BE BACK UNTIL AUGUST, I BELIEVE IT WAS  
23 THE 16TH, AND THIS IS OBVIOUS -- OBVIOUS FROM THE POLICE  
24 REPORTS AND WHAT COUNSEL IS TELLING ME THAT THERE'S A  
25 REPORT REGARDING RESULTS WHICHEVER WAY, AND WHAT WAS --  
26 WHAT WAS PRINTED AND THE RESULT OF -- OF THE PRINTS, IF  
27 ANY. IT'S JUST OBVIOUS.

28 AND THIS ISN'T WHAT COUNSEL -- THIS



4  
1 DOCUMENT CALLED, "LOS ANGELES POLICE DEPARTMENT SCIENTIFIC  
2 INVESTIGATION DIVISION LATENT PRINT SECTION," IT SAYS  
3 LATENT PRINT SECTION, BUT IT DOESN'T HAVE ANYTHING TO DO  
4 WITH -- DOESN'T SAY ANYTHING ABOUT WHAT WAS PRINTED, WHAT  
5 THEY COULDN'T MAKE.

6 IT JUST HAS A BOX, IT JUST HAS A BOX  
7 THAT'S CHECKED, "NO MAKE," BECAUSE I SUSPECT THAT THEY  
8 PRINTED THE DOOR, THEY PRINTED THE BAG OF COCAINE, THEY  
9 PRINTED THE GUN, THEY PRINTED A LOT OF -- A LOT OF OTHER  
10 ITEMS THAN JUST THE GUN THAT WE KNOW ABOUT. WE DON'T KNOW  
11 ANYTHING ELSE.

12 COUNSEL MADE --

13 THE COURT: I'D LIKE TO SEE THAT, BECAUSE IT SHOULD  
14 HAVE MORE --

15 MR. FISHER: COUNSEL MADE REFERENCE TO FINGERPRINTS  
16 ON THE WALL, BUT THERE'S NOTHING ABOUT THAT IN THIS  
17 REPORT.

18 MR. LIEBERMAN: I WAS JUST ADVISED THAT THAT'S WHAT  
19 THE REPORT DEALT WITH.

20 MR. FISHER: RIGHT, RIGHT.

21 MR. LIEBERMAN: YOUR HONOR, I WAS TOLD BY DEFENSE  
22 THAT THE TECHNICIAN WHO DID THE LIFTS, HE'S ON VACATION.  
23 I WANTED THAT PERSON ADDED ON, AND I TRIED TO ADD THAT  
24 PERSON ON MYSELF JUST TO TESTIFY THAT LATENT PRINTS WERE  
25 TAKEN AND THAT THERE WERE NO MATCHES.

26 I CAN HAVE SOMEBODY AT THE FINGERPRINT LAB  
27 GO TO THAT TECHNICIAN'S FILE AND GET MORE DETAILED REPORTS  
28 REGARDING THIS, IF NECESSARY. I DON'T KNOW IF THIS IS THE

1 MAIN ISSUE. IT SEEMS TO ME THAT THE MAIN ISSUE WOULD BE  
2 THE TAPES OF THE WITNESSES THAT WE JUST GOT, BUT THAT'S  
3 JUST MY OPINION.

4 THE COURT: WELL, GOING TO THE ISSUE OF THE TAPED  
5 STATEMENTS, THEY CERTAINLY SHOULD HAVE BEEN PROVIDED, BUT  
6 EACH OF THE WITNESSES SO FAR THAT'S TESTIFIED ALSO  
7 TESTIFIED AT THE PRELIMINARY HEARING, SO THIS WAS NOT, IN  
8 OTHER WORDS, A SITUATION WHICH AN OFFICER RELATED THEIR  
9 STATEMENTS BUT THEY ACTUALLY WERE ABLE TO TESTIFY, AND  
10 IT'S NOT, EVEN THOUGH THERE ARE THREE WITNESSES, IT'S NOT  
11 A SHORT TRANSCRIPT, SO IT WILL BE INTERESTING TO SEE IF  
12 THERE'S ANYTHING THAT'S DEVELOPED ON THAT TAPE THAT HASN'T  
13 BEEN COVERED ALREADY BY THE TESTIMONY AT THE PRELIM AND  
14 HERE, AND WE'LL TAKE A BREAK AND ALLOW YOU TO DO THAT.

15 THIS DOESN'T -- THIS SHEET IS CALLED A  
16 REQUEST FOR A.F.I.S. RUN, IT'S DATED JULY 25, 2005, BY  
17 INVESTIGATOR DETECTIVE FRANCO, AND IT LISTS THE VICTIM'S  
18 NAME. KATHERINE IS THE VICTIM THAT'S NAMED AND JUST SAYS,  
19 "NO MAKE." NO COMPARISON, I ASSUME.

20 THERE ARE THREE CHECK OFFS AS TO RESULTS,  
21 NO PLACE ON IT TO ALLOW A LISTING OF WHAT WAS COMPARED,  
22 BUT THE RESULTS OF THE COMPARISON WOULD BE UNABLE TO  
23 SEARCH IN A.F.I.S.

24 THE SECOND IS IDENTIFIED AND THE THIRD IS  
25 NO MAKE, SO IT SEEMS EVIDENT FROM THE WAY IT'S CHECKED OFF  
26 THAT THE COMPARISON RESULTED IN NO MAKE, IF IT WAS  
27 POSSIBLE TO MAKE A COMPARISON. SO NO IDENTIFIABLE PRINTS  
28 APPARENTLY TO WHOEVER WAS COMPARED.

1 LOGICALLY THERE SHOULD BE SOME INDICATION  
2 OF WHETHER IT'S A COMPARISON WITH JUST ANYONE -- I GUESS  
3 RUNNING IT AGAINST THE AUTOMATED FINGERPRINT  
4 IDENTIFICATION SYSTEM, IT WOULD BE ANYBODY IN THE SYSTEM,  
5 WHICH WOULD INCLUDE MR. MORRIS FROM HIS PRIOR CONVICTION.  
6 SO NO -- NO MATCH TO HIM OR TO ANYONE ELSE IN THE SYSTEM.

7 OKAY. SO YOU NEED SOME TIME TO GO FURTHER  
8 INTO THESE THINGS.

9 WHAT DO YOU WANT TO DO WITH THE JURY?  
10 THIS IS GREAT. THEY FINALLY SHOW UP ON TIME AND NOW WE  
11 CAN'T START.

12 HOW MUCH TIME DO YOU THINK YOU NEED?

13 MR. FISHER: I DON'T KNOW, YOUR HONOR. THIS LOOKS  
14 LIKE A 60 MINUTE TAPE, BUT OFTEN TIMES IT'S NOT THE FULL  
15 TAPE, SO IT LOOKS LIKE -- I DON'T KNOW, 60 MINUTES. IT  
16 MIGHT BE A 90 MINUTE TAPE. I DON'T KNOW.

17 THE COURT: OKAY. WELL, WE'LL LET THE JURY TAKE A  
18 BREAK TOO, TELL THEM WE RAN INTO A TECHNICAL PROBLEM AND  
19 WE CAN'T START RIGHT AWAY, AND THEN WE'LL SEE WHERE WE ARE  
20 AFTER YOU DO YOUR CHECKUP.

21 IS THERE ANYTHING ELSE YOU CAN DO AS FAR  
22 AS THE PRINTS ARE CONCERNED? BECAUSE SOMETHING IS  
23 MISSING, I AGREE WITH MR. FISHER. EVEN THOUGH THIS SAYS  
24 THERE IS NO MAKE ON ANY OF THE PRINTS, IT WOULD BE NICE TO  
25 KNOW WHERE THE PRINTS CAME FROM THAT WERE COMPARED, AND I  
26 GUESS THAT'S ALL WE'RE GOING TO FIND OUT IS WHAT ITEMS  
27 WERE USED TO PROCESS INTO THE A.F.I.S. SYSTEM.

28 MR. LIEBERMAN: I WILL CALL AND DO THE BEST I CAN,

1 AND THE I.O. WILL BE COMING BACK, SO BOTH MYSELF AND THE  
2 I.O. WILL TRY TO FIND OUT.

3 MR. FISHER: IT'S PROBABLY JUST IN HIS FILE IF  
4 THERE'S A PLACE WHERE HE KEEPS IT. THEY DO THIS ALL THE  
5 TIME.

6 THE COURT: OKAY.

7 MR. FISHER: THERE'S GOING TO BE -- IT'S NOT GOING  
8 TO BE AN OFFICIAL REPORT, BUT IT'S THE COMPARISON, WHAT  
9 WAS COMPARED AND WHAT CAME BACK AND WHAT WAS PRINTED.

10 THE COURT: SO WHAT, ABOUT AN HOUR, RESUME AT  
11 11:00, AT LEAST TENTATIVELY? IF YOU NEED MORE TIME, CALL  
12 US AND LET US KNOW WHAT'S HAPPENED.

13 MR. FISHER: OKAY.

14 THE COURT: I'LL LET THE JURY GO FOR AN HOUR, TELL  
15 THEM WE HAD A TECHNICAL PROBLEM, AND WE'LL DO THE BEST WE  
16 CAN TO GET STARTED AGAIN.

17 MR. FISHER: THANK YOU, YOUR HONOR.

18 THE COURT: LET ME GIVE YOU THIS REPORT.

19

20 (RECESS.)

21

22 THE COURT: OKAY. WE DO HAVE MR. MORRIS, BOTH  
23 COUNSEL PRESENT.

24 WHAT THEN IS THE SITUATION WITH REGARD TO  
25 THE LATE DISCOVERY?

26 MR. FISHER: WELL, I'VE LISTENED TO THE TAPES,  
27 AND -- AND THAT'S FINE. I'M SATISFIED.

28 THE COURT: NOTHING NEW DISCOVERED ON THE TAPES

1 THEN THAT YOU DIDN'T ALREADY KNOW?

2 MR. FISHER: NO. THAT'S CORRECT.

3 THE COURT: DOUBLE NEGATIVE.

4 MR. FISHER: AND I JUST RECEIVED SOME FINGERPRINT  
5 DISCOVERY, BUT I HAVEN'T HAD AN OPPORTUNITY TO LOOK AT IT,  
6 BUT I CAN LOOK AT THAT AT THE NOONTIME, SO WE'RE READY,  
7 YOUR HONOR.

8 THE COURT: OKAY.

9 MR. LIEBERMAN: AND, YOUR HONOR, I JUST WANT THE  
10 RECORD TO REFLECT THAT WE DID PROVIDE DEFENSE COUNSEL WITH  
11 A COPY OF THE 911 TAPE WHICH SHOULD HAVE KATHERINE'S VOICE  
12 ON THERE.

13 ADDITIONALLY, I JUST GOT A COPY OF WHAT  
14 LOOKS LIKE THE POLICE LOG SHEET OR LOG SHEET THAT IS  
15 ASSOCIATED WITH THIS, AND I'LL MAKE A PHOTOCOPY OF THAT  
16 AND GIVE THAT TO DEFENSE AS SOON I CAN.

17 I'VE PROVIDED THE DEFENSE WITH THE  
18 FINGERPRINT REPORT THAT HE WAS REFERRING TO OR REQUESTING.  
19 IT'S FIVE PAGES. HE SHOULD HAVE ALL FIVE PAGES.

20 AND ALSO I'VE GIVEN HIM A COPY OF THE --  
21 THE REPORTS I DISCUSSED EARLIER, THE ONE BY SALONGA AND  
22 THE ONE THAT THE COURT WAS DESCRIBING ON THE RECORD, HE  
23 NOW HAS PHOTOCOPIES FOR HIS RECORDS AS WELL.

24 I THINK THAT WE'RE UP TO DATE FOR NOW, AND  
25 HE'LL TELL US IF WE'RE NOT WHEN HE LOOKS AT THE STUFF  
26 DURING LUNCH.

27 I WAS GOING TO MAKE ONE REQUEST, THAT I  
28 CALL THE HELICOPTER OBSERVER OUT OF ORDER, IF THAT'S OKAY.

1 CASE NUMBER: B279836  
2 CASE NAME: PEOPLE VS. CONDALEE MORRIS  
3 LOS ANGELES, CALIFORNIA; WEDNESDAY, JULY 27, 2005  
4 DEPARTMENT NO. 101 HON. WILLIAM R. POUNDERS, JUDGE  
5 REPORTER: JEANNE C. IANNONE, CSR NO. 3140  
6 TIME: 1:34 P.M.  
7

8 (APPEARANCES AS HERETOFORE NOTED.)  
9

10 (THE FOLLOWING PROCEEDINGS WERE  
11 HELD IN OPEN COURT OUTSIDE THE  
12 PRESENCE OF THE JURY:)  
13

14 THE COURT: WE DO HAVE MR. MORRIS AND BOTH COUNSEL  
15 PRESENT.

16 WHAT PROBLEMS AND SOLUTIONS HAVE WE GOT  
17 NOW? ANYTHING ELSE NEW?

18 MR. LIEBERMAN: I THINK EVERYTHING IS BEING SOLVED,  
19 YOUR HONOR. I THINK WE HAVE A WITNESS THAT CAN TESTIFY,  
20 IF DEFENSE WANTS -- I DON'T KNOW IF I'M GOING TO CALL THE  
21 WITNESS, BUT IF I DON'T, DEFENSE CAN CALL THE WITNESS.  
22 I'LL MAKE THE WITNESS AVAILABLE FROM SID TO TESTIFY TO  
23 EXACTLY WHAT PRINTS WERE FOUND AND RESULTS OF THE  
24 COMPARISON WITH A.F.I.S.; HOWEVER, I WAS TOLD THAT THEY  
25 WOULD PREFER IF THEY COULD ROLL AND COMPARE THE DEFENDANT  
26 TOMORROW, BECAUSE IT'S THEIR FEELING THAT PRINTS DON'T  
27 NECESSARILY MATCH UP WITH A.F.I.S. BECAUSE SOMETIMES THE  
28 PRINT, THE QUALITY OF THE PRINTS AND A.F.I.S. MAY NOT BE

1 VERY GOOD.

2 IF THEY WERE TO ROLL THE DEFENDANT, THEY  
3 MAY GET A BETTER PRINT AND THEY MIGHT BE ABLE TO MATCH HIM  
4 WITH THE NEW PRINT.

5 I DON'T KNOW IF THE DEFENDANT WAS WEARING  
6 GLOVES OR NOT. I DIDN'T INQUIRE OF EACH WITNESS, I SHOULD  
7 HAVE DONE THAT BEFORE, BUT ASSUMING THAT HE WASN'T, THEN  
8 HE MAY -- IT MAY BE A VERY INTERESTING DEVELOPMENT.

9 MR. FISHER: I WOULD LIKE THE REPRESENTATIVE TO  
10 COME AND -- AND TESTIFY WHAT THESE -- THIS BUSINESS RECORD  
11 IS AND WHAT WAS DONE AND WHAT COMPARISON WAS MADE AND WHAT  
12 RESULT, IF ANY, HAPPENED. THAT'S WHAT I WOULD LIKE.

13 THE COURT: OKAY.

14 MR. FISHER: ABOUT ROLLING PRINTS, WE SHOULD JUST  
15 BRING THEM IN THIS AFTERNOON OR TOMORROW MORNING WHEN WE  
16 GET TO HIM AND JUST HAVE HIM INTERPRET WHAT THE RESULTS  
17 ARE.

18 THE COURT: OKAY. SEEMS REASONABLE.

19 IS THAT WHAT YOU HAD PLANNED TO DO?

20 MR. LIEBERMAN: YES. I WOULD ASK THAT THE  
21 DEFENDANT BE MADE AVAILABLE TO HAVE THEM COMPARED -- TO BE  
22 ROLLED AND THEN THEY CAN MAKE THE COMPARISON.

23 MR. FISHER: WELL, THEY HAVE HIS PRINTS WHEN HE WAS  
24 BOOKED.

25 THE COURT: BUT BASED ON THE OFFER THAT -- WELL,  
26 THAT IS TRUE TOO, BUT THAT WOULDN'T BE PRESENT HERE IF  
27 THEY WANT TO COMPARE FROM HERE.

28 IF THE CONCERN WAS COMPARING WHATEVER



1 IDENTIFIABLE PRINTS WERE SEIZED FROM THE SCENE OF THE  
2 CRIME WITH A.F.I.S. PRINTS, THEN YOU DON'T GET AS GOOD A  
3 COMPARISON IS WHAT THEY'RE SAYING.

4 MR. FISHER: MY PROBLEM WITH THIS IS THERE'S A LOT  
5 OF PROBLEM WITH THESE FINGERPRINT EXPERTS, EVEN SID, AND  
6 THEY LOOK AT THESE RIDGES AND THEY INTERPRET THE RIDGES,  
7 AND IF THERE'S SO MANY RIDGES, WHATEVER, YOU KNOW, ALL I  
8 WANT IS WHAT HAPPENED WHEN THEY PUT IT IN THE COMPUTER.

9 THE COURT: RIGHT. BUT THAT DOESN'T MEAN THE  
10 PROSECUTION IS NOT ENTITLED TO SEE IF A FRESH COMPARISON  
11 OF PRINTS TAKEN HERE FROM YOUR CLIENT WOULD MATCH ANY OF  
12 THE PRINTS LIFTED THAT WERE IDENTIFIABLE FROM THE SCENE.

13 I GUESS THE FIRST STEP WOULD BE TO FIND  
14 OUT WHAT WAS IDENTIFIABLE, BUT THAT -- THE ONLY THING I  
15 COULD DISCERN FROM THAT ONE REPORT WAS THAT THERE WERE  
16 IDENTIFIABLE PRINTS THAT WERE SEIZED FROM THE SCENE THAT  
17 DIDN'T RESULT IN A.F.I.S. MATCH. THAT WOULD NOT  
18 NECESSARILY MEAN THAT, FOR EXAMPLE, THEY WERE NOT THE  
19 PRINTS OF THE PEOPLE THAT LIVE IN THE HOUSE, WHICH IS MOST  
20 LOGICAL, UNLESS THEY HAD A CRIMINAL RECORD.

21 BUT, YEAH, MIGHT AS WELL PURSUE IT AND SEE  
22 WHAT THE PRINTS WERE.

23 THE DEFENDANT: LET'S GO. I'M INNOCENT. I AIN'T  
24 GOT NOTHING TO HIDE.

25 THE COURT: OKAY.

26 MR. FISHER: SO WE'LL DO THAT THEN TOMORROW  
27 MORNING?

28 THE COURT: YEAH.

1 OVER AT THE BEGINNING, AND THAT'S WHEN THE WITNESSES HAD  
2 PRIOR CONTACT WITH THE ALLEGED PERPETRATOR, BECAUSE IF  
3 THESE WITNESSES HAD SEEN MR. MORRIS BEFORE AND -- AND SAW  
4 HIM AGAIN IN THE HOUSE, THEN THERE WOULDN'T BE ANY  
5 PROBLEM, YOU KNOW, LIKE YOU'VE SEEN THE PERSON, BUT THEY  
6 HAD NEVER SEEN MR. MORRIS BEFORE.

7 SO THOSE ARE TWO OTHER FACTORS YOU  
8 SHOULD -- YOU SHOULD CONSIDER.

9 THE LAST THING I'D LIKE TO TALK ABOUT IS  
10 THIS -- ANOTHER GLOSSING OVER THE -- THE EVIDENCE WITH  
11 RESPECT TO THE SID REPRESENTATIVE. WE KNOW THAT A  
12 REPRESENTATIVE CAME OUT AND DUSTED THIS PLACE. WE KNOW  
13 SPECIFICALLY WHAT WAS DUSTED, SOME ITEMS. THE OFFICER  
14 TESTIFIED THAT THIS CROWBAR WAS DUSTED AND -- AND THIS --  
15 THIS ROLL OF TAPE.

16 LADIES AND GENTLEMEN, YOU HEARD HIM  
17 TESTIFY ABOUT HOW YOU HARDLY SELDOM EVER GET -- GET  
18 FINGERPRINTS OFF A GUN BECAUSE IT'S -- IT'S ROUGH, IT'S A  
19 ROUGH SURFACE AND YOU CAN'T GET PRINTS.

20 WELL, I SUBMIT TO YOU THAT YOU HOLD THIS  
21 CROWBAR LIKE THIS COLD STEAL, THERE IS NO PROBLEM. YOU  
22 CAN GET A PRINT, THE RIDGES CAN BE READ, AND YOU CAN  
23 COMPARE THAT WITH MR. MORRIS', AND SEE WHETHER OR NOT IT'S  
24 A MATCH. MAKE NO MISTAKE.

25 THE SAME THING WITH TAPE. YOU HOLD THE  
26 TAPE, AND MR. MORRIS IS THE MASTERMIND OF THIS, RIGHT?  
27 HE'S PROBABLY THE ONE THAT WENT OUT -- COUNSEL WANTS YOU  
28 TO BELIEVE HE'S PROBABLY THE ONE THAT WENT OUT AND BOUGHT

1 ALL THESE ITEMS. YOU HOLD A TAPE LIKE THIS, DUST IT,  
2 YOU'RE GOING TO GET PRINTS, AND -- AND -- AND YOU'RE GOING  
3 TO BE ABLE TO MAKE A COMPARISON.

4 THIS IS PLASTIC. IT'S LIKE A DOPE CASE.  
5 SOMEONE IS CARRYING A BAGGIE OF COCAINE. YOU PUT -- YOU  
6 CAN EVEN SEE YOUR FINGERPRINT IF YOU -- ON CERTAIN PLASTIC  
7 BAGS LIKE THIS.

8 SO WHEN COUNSEL GETS UP HERE AND SAYS THE  
9 ONLY EVIDENCE IN THIS CASE BEFORE YOU WAS THE GUN, HE HAD  
10 A PERFECT OPPORTUNITY AND TIME TO -- AT THAT TIME TO ASK  
11 THE EXPERT, WELL, WHAT WAS DUSTED AND -- AND WHAT WAS  
12 COMPARED AND WHAT CAME BACK.

13 MR. LIEBERMAN: OBJECTION.

14 THE COURT: SUSTAINED.

15 MR. FISHER: OKAY.

16 DON'T BUY INTO THIS ARGUMENT, WELL,  
17 MR. FISHER HAS A RIGHT TO CALL WITNESSES ON BEHALF OF THE  
18 DEFENDANT. HE HAS THE SUBPOENA POWER. HE COULD HAVE  
19 ASKED THE QUESTIONS OF THE FORENSIC EXPERT.

20 YOU JUST REMIND YOURSELF THAT MR. FISHER,  
21 THE DEFENSE IN THIS CASE DOESN'T HAVE TO DO ANYTHING. THE  
22 BURDEN OF PROOF IS ON THE PROSECUTION, AND IF SOMETHING  
23 CAME BACK THAT -- THAT CONCLUDED OR -- OR -- OR POINTED TO  
24 DEFENDANT, MR. MORRIS' GUILT, YOU WOULD HAVE HEARD ABOUT  
25 IT WITH RESPECT TO THE SCIENTIFIC --

26 MR. LIEBERMAN: OBJECTION, YOUR HONOR. MAY I BE  
27 HEARD AT SIDE BAR?

28 THE COURT: YES.

1 (THE FOLLOWING PROCEEDINGS WERE HELD  
2 AT THE BENCH:)

3  
4 MR. LIEBERMAN: COUNSEL IS TRYING TO GIVE THE  
5 IMPRESSION THAT I THINK IS UNFAIR IN THIS PARTICULAR CASE.  
6 HE MADE A DECISION IN THE CASE, AND THE STATE OF THE  
7 EVIDENCE IS THAT THINGS WERE DUSTED, WE DO NOT KNOW WHAT  
8 WAS DUSTED, AND THERE IS A REASON WHY WE DON'T KNOW,  
9 BECAUSE DEFENSE COUNSEL CHOSE TO LEAVE THAT AS THE STATE  
10 OF THE EVIDENCE AND NOT HAVE HIS CLIENT RE-FINGERPRINTED.

11 I THINK THE INFERENCE THAT COUNSEL IS  
12 TRYING TO DRAW IS UNFAIR, AND I THINK HE SHOULD NOT BE  
13 PERMITTED TO CONTINUE ON THIS LINE OF ARGUMENT.

14 THE COURT: THIS ARGUMENT IS BASICALLY WHAT I SAID  
15 I WOULD PERMIT, THAT THE EVIDENCE IS THAT DUSTING WAS  
16 DONE, NO PRINTS WERE PICKED UP, NO PRINTS WERE COMPARED,  
17 AND HE'S JUST SAYING IF THERE HAD BEEN ANYTHING POSITIVE,  
18 YOU'D BEEN ABLE TO BRING IT FORWARD, SO THAT'S THE  
19 ARGUMENT I PERMITTED.

20 OBJECTION IS OVERRULED.

21  
22 (THE FOLLOWING PROCEEDINGS WERE  
23 HELD IN OPEN COURT IN THE PRESENCE  
24 OF THE JURY:)

25  
26 MR. FISHER: NOW, I'M ALMOST DONE. I JUST WANT TO  
27 TALK A LITTLE BIT ABOUT REASONABLE DOUBT, BUT I WANT TO  
28 CHECK MY NOTES BECAUSE I KNOW THERE WAS SO MUCH -- SO MUCH

Police Procedure

- Crime with which suspect was identified;
- Name of person who made identification;
- DR number of report of crime with which suspect was identified;
- Name of the concerned law enforcement agency and the case number, when suspect identified with a crime committed in another jurisdiction;
- Names of victims and witnesses attending the "show-up;"
- Names of suspect's defense attorneys and deputy district attorneys attending the "show-up;"
- Name and serial number of the officer who selected the participants for the "show-up;"
- Unusual actions which the investigating officer requested the suspect to perform during the "show-up;" and,
- Name, serial number, and detail of officer conducting the "show-up."

**Suspect Not Identified.** When no suspects are identified in a "show-up," the teletype notification shall contain the following:

- NO SUSPECTS IDENTIFIED;
- (Names of victims and witnesses attending the "show-up"); and,
- (Name, serial number, and detail of officer conducting the "show-up".)

**203.50 IDENTIFICATION OF SUSPECTS IN THE FIELD.** A suspect may be transported to a victim or witness for the purpose of identification when:

- An officer is conducting a preliminary investigation and a field confrontation is necessary to determine if the suspect is the perpetrator of the offense; and,
- Probable cause exists to arrest the suspect for the offense; or,
- Exigent circumstances exist that make it unreasonable for the victim or witness to be transported to the suspect; or,
- The officer obtains the free and voluntary consent of the suspect.

An officer who intends to conduct a field confrontation shall inform the victim or witness that:

- The person is in temporary custody as a possible suspect only; and,
- The fact the person is in police custody does not indicate his/her guilt or innocence; and,
- The purpose of the confrontation is either to eliminate or identify the person as the perpetrator.

**735.05 SCHEDULING AND LOCATION OF FORMAL SHOW - UPS FOR ADULT SUSPECTS.** Formal show-ups for adult suspects shall be conducted in:

- The Auditorium, Room 100, Parker Center;
- The Auditorium of the Los Angeles County Central Jail; or,
- The designated facilities at Los Angeles County Jail.

Exhibit 2 2

1 Q. I'M ALMOST FINISHED, I JUST WANT TO TALK  
2 ABOUT YOUR IDENTIFICATION.

3 WERE YOU PUT IN A POLICE CAR AND TOLD THAT  
4 THE POLICE HAD THE SUSPECT, ONE OF THE SUSPECTS THAT  
5 BROKE INTO YOUR HOME?

6 A. YES.

7 Q. OKAY. AND WERE YOU DRIVEN IN A POLICE CAR  
8 TO TRY AND IDENTIFY THAT INDIVIDUAL?

9 A. THAT'S RIGHT.

10 Q. AND WHEN YOU SAW -- WHO WAS IN THE POLICE  
11 CAR WHEN YOU MADE THE IDENTIFICATION?

12 A. I WAS ALONE IN THE BACK.

13 Q. DID THE POLICE OFFICERS TELL YOU THAT THAT  
14 WAS THE PERSON THAT THEY THOUGHT ROBBED YOU?

15 A. THEY DIDN'T SAY THAT. THEY SAID THAT IF I  
16 COULD FIGURE OUT IF THAT WAS THE PERSON THAT HAD COME  
17 IN.

18 Q. AND DID YOU IDENTIFY THAT PERSON?

19 A. YES. I TOLD HIM THAT I WAS 95 PERCENT SURE  
20 THAT HE WAS ONE OF THEM.

21 Q. AND WHEN YOU IDENTIFIED THAT PERSON, WAS  
22 THAT PERSON HANDCUFFED?

23 A. YES, HE WAS.

24 Q. WERE UNIFORMED POLICE OFFICERS STANDING NEXT  
25 TO HIM?

26 A. YES.

27 Q. HOW MANY?

28 A. WELL, I DON'T REMEMBER. AT LEAST ONE.

EXHIBIT 3

1 Q. AND HAD ANY MEMBERS OF YOUR FAMILY TALKED  
2 TO YOU ABOUT ANY IDENTIFICATIONS THAT THEY MAY HAVE MADE  
3 PRIOR TO YOU SEEING THE DEFENDANT?

4 A. NO, BECAUSE I WAS THE FIRST ONE WHO WAS  
5 TAKEN.

6 Q. OKAY. DID YOU FIND ANY BOX CUTTERS IN  
7 YOUR HOUSE AFTER THE INCIDENT?

8 A. NO.

9 Q. DID YOU FIND ANY DUCT TAPE IN YOUR HOUSE?

10 A. NO, NO.

11 MR. LIEBERMAN: I HAVE NO MORE QUESTIONS, YOUR  
12 HONOR, AT THIS TIME.

13 THE COURT: ALL RIGHT.

14 MR. FISHER, YOU MAY CROSS-EXAMINE.

15 MR. FISHER: THANK YOU, YOUR HONOR.

16  
17 CROSS-EXAMINATION

18  
19 BY MR. FISHER:

20 Q. WHEN THE POLICE PUT YOU IN THE POLICE CAR  
21 TO MAKE THE IDENTIFICATION, DID THEY TELL YOU THEY HAD ONE  
22 OF THE SUSPECTS THAT -- THAT BURGLARIZED YOUR HOUSE?

23 A. YES.

24 Q. AND WHEN THEY TOOK YOU TO THIS PLACE TO  
25 IDENTIFY THE SUSPECT, WAS MR. MORRIS HERE THE ONLY  
26 AFRICAN-AMERICAN PERSON?

27 A. YES.

28 Q. AND IS IT FAIR TO SAY YOU WERE REAL UPSET,

Exhibit-4



1 Q. SHOWING YOU PEOPLE'S 23.  
2 DID YOU NOTICE ANY DAMAGE TO ANY OF THE  
3 DOORS?

4 A. THE -- THE REAR DOOR OF THE HOUSE WAS  
5 DAMAGED.

6 Q. OKAY. DESCRIBE IT.

7 A. I BELIEVE -- I CAN'T RECOLLECT. I JUST  
8 REMEMBER THAT IT BEING LIKE THE DOORJAMB APPEARED TO BE  
9 LIKE IT WAS BUSTED OR KICKED IN.

10 Q. OKAY.

11 I'M ALMOST DONE, YOUR HONOR.

12 I HAVE THREE SMALL ENVELOPES IN MY HAND.  
13 THEY ALL THREE APPEAR TO CONTAIN OR ARE LABELED --  
14 WITHDRAWN.

15 I HAVE NO MORE QUESTIONS, YOUR HONOR.  
16 THE COURT: CROSS-EXAMINE.

17  
18 CROSS-EXAMINATION

19  
20 BY MR. FISHER:

21 Q. WHEN YOU WERE INTERVIEWING THESE  
22 WITNESSES, DID YOU TAKE ANY NOTES?

23 A. YES, I DID.

24 Q. DID YOU BRING THOSE NOTES TO COURT TODAY?

25 A. NO, I DIDN'T.

26 Q. HOW LONG AFTER THIS INCIDENT -- WHERE ARE  
27 THESE NOTES?

28 A. I EITHER DISCARDED THEM OR I MAY HAVE THEM

EXHIBIT 19 7

1 SOMEWHERE.

2 Q. YOU KNOW YOU'RE SUPPOSED TO KEEP THE  
3 NOTES, DON'T YOU?

4 A. AT THE TIME I DIDN'T KNOW. I LATER FOUND  
5 OUT THAT IT PROBABLY WOULD HAVE BEEN A GOOD IDEA TO KEEP  
6 THEM.

7 Q. HOW LONG AFTER THE INTERVIEW WAS THE  
8 POLICE REPORT PREPARED BY YOUR PARTNER WHEN YOU SAY THEY  
9 MADE THESE STATEMENTS?

10 A. LET'S SEE, PROBABLY WE GOT THE CALL  
11 APPROXIMATELY 1:05. I WOULD SAY THAT WHERE WE STARTED  
12 WRITING, ACTUALLY WRITING THE REPORT WAS APPROXIMATELY  
13 5:00 TO MAYBE 6:00 IN THE MORNING, SOMEWHERE AROUND THERE.

14 Q. SO HOW MANY HOURS AFTER THE STATEMENT WAS  
15 MADE REGARDING THE IDENTIFICATION WAS THE -- THAT PART OF  
16 THE REPORT WRITTEN?

17 A. WELL, THAT WOULD BE AROUND FIVE TO SIX  
18 HOURS.

19 Q. AND YOU REMEMBER YOU HAD SOME NOTES?

20 A. YES.

21 Q. AND DO YOU KNOW WHAT YOU DID WITH THOSE  
22 NOTES AGAIN?

23 A. I DON'T REMEMBER WHAT I DID WITH THEM.

24 Q. OKAY. NOW, ARE YOU BROADCASTING ON DUPLEX  
25 AT THE TIME YOU MAKE CONTACT WITH MR. MORRIS HERE?

26 A. WHAT WE BELIEVE WE DID IS EITHER MY  
27 PARTNER AND I, WE AT LEAST ON DUPLEX WE'D SAY WE'VE MADE  
28 CONTACT WITH THE SUSPECT, BUT MOST OF IT WAS TALKING TO

Exhibit ~~3~~ 8

Exhibit ~~8~~ 9

To  
Legal Argument 6

Follow up investigation

DATE THIS REPORT 5/27/05		DATE ORIGINAL RPT. 3/4/05		SPECIFIC TYPE ORIGINAL RPT. (ADW, TFV, EVID., ARREST/BURG., ETC.) <b>ROBBERY</b>		R.D. 395		MULTIPLE DR 050309786	
VICTIM/BOOKED TO/ARRESTEE (as on original report) <b>Rayos, Heladio</b>				IF RECLASSIFYING TO HOMICIDE SEX/DESCENT/AGE		BKG NO. (Suppl. to Arrest)		WORK FOLDER PERIOD ORIG. RPT. INDEX NO. 384-13	
CASE STATUS <input type="checkbox"/> CLEARED BY ARREST <input type="checkbox"/> CLEARED OTHER <input type="checkbox"/> REPORT UNFOUNDED <input checked="" type="checkbox"/> INVESTIGATION CONTINUED									
Use this section only to add or correct info - do not remove info from previous reports. Exception: Complete online suspect info if making final disposition.									
DATE OCCURRED		CHANGE TO - ON OR BETWEEN MO DAY YEAR TIME		CHANGE TO - ON OR BETWEEN MO DAY YEAR TIME		TYPE ORIG RPT - CHANGE TO		RD - CHG TO	
PROPERTY VALUE		ADDITIONAL LOSS		PARTIAL RECOVERY		TOTAL RECOVERY		DELETE FROM ORIG. RPT.	
								DESCRIPTION CHANGE	
								ITEM NOS. RECOVERED/DELETED (ON MULTI. RPTS. USE NARRATIVE)	
S-1		SEX	DESC	HAIR	EYES	HEIGHT	WEIGHT	DOB	AGE
		M	BLK	BLK	BRO	509	170	05/09/76	28
		NAME & ADDRESS (or name & charge, if arrested) <b>Morris, Candace 1503 S 127th Compton</b>							
		ACTION TAKEN <b>DDA Merrick - (2)211 (1)487 PC (1)12021 (3)422</b>							
		LA OR BKG. NO. <b>8480652</b>							
S-2		SEX	DESC	HAIR	EYES	HEIGHT	WEIGHT	DOB	AGE
		NAME & ADDRESS (or name & charge, if arrested)							
		ACTION TAKEN							
		LA OR BKG. NO.							
S-3		SEX	DESC	HAIR	EYES	HEIGHT	WEIGHT	DOB	AGE
		NAME & ADDRESS (or name & charge, if arrested)							
		ACTION TAKEN							
		LA OR BKG. NO.							
NARRATIVE (USE BELOW COLUMNS FOR MULTIPLE REPORTS ONLY)									
P/T/D		MULTIPLE RPT. OR NOS.		TYPE OF CRIME		RD		VICTIM'S NAME	
								DATE ORIG. RPT.	
								VALUE	

Incident No. 5063000245

Additional:

I/O spoke with Air Support and inquired whether they took video of the incident. They did not. I/O was advised the air units are equipped with recording equipment, but they do not record on a routine basis. Video footage is taken upon request.

The gun recovered from the victim's bushes is not registered. Katherine Rayos stated the gun found in the bushes was the gun taken from her house, however, the gun is not registered to her. Rayos insisted the gun she owned was registered. I/O has searched Department resources and cannot find any guns registered to Katherine Rayos.

Roy Olivares is the cousin of Heladio Rayos. On 03/21/05, Melvin Ellis, was arrested in Compton in possession of a firearm. The gun was registered to Roy Olivares. Olivares was notified about the recovery of his gun. Olivares stated he left his gun at his cousin's house and apparently it was taken during the home invasion robbery. I/O asked Katherine Rayos why she did not report the second gun stolen. Rayos stated she was not aware Olivares left his gun at their house and never saw the suspects take it. Rayos' husband, Haladio, said the gun was in the closet and he did not know the suspects took it. Olivares' gun was also a Colt, semi-auto (70S02122) I/O pulled Ellis' booking photo and completed a photographic line-up containing his photo. None of the victim's could identify Ellis as a suspect.

Witness Treva Brown is the neighbor of the Rayos family. Brown lives at [redacted]. Brown advised police at approximately 0010 hours on 03/01/05, she observed a small two door Black vehicle stopped facing eastbound [redacted] vehicle was stopped at the stop sign for approximately two minutes. On 03/02/05, at approximately 0045 hours, she observed the same vehicle stopped at the stop sign for approximately two minutes. On 03/04/05, at approximately 0045 hours, she saw two vehicles park on St. Andrews Place. She described vehicle one as a white small compact (possible Camry) parked on St. Andrews Place, facing northbound. Vehicle two (Black station wagon) was parked on St. Andrews facing southbound. Treva then heard the police helicopter overhead and also heard her dog barking. The vehicles then fled the area.

WAS PROPERTY BOOKED IN CONJUNCTION WITH THIS REPORT OR INCIDENT?		<input type="checkbox"/> NO <input checked="" type="checkbox"/> YES		IF YES, HAS 10.6 BEEN COMPLETED?		<input type="checkbox"/> NO <input checked="" type="checkbox"/> YES	
SUPERVISOR APPROVAL		SERIAL NO.		REPORTING OFFICER(S)		DIVISION	
[Signature]		30632		J. FRANCO		SOUTHWEST	
DATE & TIME REPRODUCED		DIVISION		REPORTING OFFICER(S)		DIVISION	



MICHAEL P. JUDGE  
PUBLIC DEFENDER

LAW OFFICES

LOS ANGELES COUNTY PUBLIC DEFENDER  
19-513 CLARA SHORTRIDGE FOLTZ CRIMINAL JUSTICE CENTER  
210 WEST TEMPLE ST, 19<sup>TH</sup> FLOOR  
LOS ANGELES, CALIFORNIA 90012  
(213) 974-2811  
TDD # (800) 801-5551

February 28, 2007

Condalee Morris #V96203  
B-4 220  
Calipatria State Prison  
P. O. Box 5005  
Calipatria, CA 92233

Re: People v. Condalee Morris  
Case No. BA279836

Dear Mr. Morris:

This letter is in response to your request for copies of missing pages of the police report in your case. Enclosed are the remaining pages of the police report that you requested with the exception of pages 6 and 7, which are not in the file. Additionally, copies of the photos that were inadvertently missed previously are enclosed as well.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark Lessem", is written over a horizontal line.

MARK LESSEM  
Head Deputy

ML:sjf

Encls.

ARRESTEE (as on original report) Rayos, Heladio

IF RECLASSIFYING TO HOMICIDE SEX/DESCENT/AGE VICT'S:

CASE STATUS ☐ CLEARED BY ARREST ☐ CLEARED OTHER ☐ REPORT UNFOUNDED ☒ INVESTIGATION CONTINUED

Use this section only to add or correct info - do not repeat info from previous reports. Exception: Complete entire suspect info if making final disposition.

DATE OCCURRED	CHANGE TO - ON OR BETWEEN MO DAY YEAR TIME	CHANGE TO - ON OR BETWEEN MO DAY YEAR TIME	TYPE ORIG RPT - CHANGE TO	RD- CHG. TO	DR CHANGE TO	INV. DIV. CHANGE TO

PROPERTY VALUE	ADDITIONAL LOSS	PARTIAL RECOVERY	TOTAL RECOVERY	DELETE FROM ORIG. RPT.	DESCRIPTION CHANGE	ITEM NOS. RECOVERED/DELETED (ON MULTI. RPTS. USE NARRATIVE)

S-	SEX	DESC	HAIR	EYES	HEIGHT	WEIGHT	DOB	AGE	NAME & ADDRESS (or name & charge, if arrested)	ACTION TAKEN	LA OR BKG. NO.
1	M	BLK	BLK	BRO	509	170	05/09/76	28	Morris, Condalee 1503 S 127th Compton	Investigation Continued	8480652
2											
3											

NARRATIVE (USE BELOW COLUMNS FOR MULTIPLE REPORTS ONLY)

P/T/D	MULTIPLE RPT. DR NOS.	TYPE OF CRIME	RD	VICTIM'S NAME	DATE ORIG. RPT.	VALUE

Incident No. 5063000245

**Crime Summary:**

Suspects gained entry into the residence by prying open the back door. Suspects beat victims and demanded money at gunpoint. Suspects took victim's cash and fled the location.

**Investigation:**

Suspects 2, 3, and 4 were able to flee from the location. Suspect 1 (Morris) was seen leaving through the front door by the LAPD airship and taken into custody by responding officers. Morris was positively identified by the victims as one of the suspects involved in the robbery. Officers recovered a handgun from the bushes. The weapon was taken from the residence and found in the same area the airship observed Morris near. The gun was not registered, Katherine Rayos said it was hers and she has had it for years.

I/O spoke with victim Katherine Rayos. Rayos stated she was recently awarded a large settlement, which was related to a severe work injury. Rayos said the settlement was in the millions, but she has yet to receive any money. Rayos commented the suspects kept saying, "We know you have a lot of money. Where is the safe?" Victim Katherine Rayos said Morris seemed to be the one in charge during the robbery and he was the suspect who hit her in the face.

Morris has a lengthy arrest history and is on formal probation for a weapons charge. Morris was admonished, but refused to provide a statement.

WAS PROPERTY BOOKED IN CONJUNCTION WITH THIS REPORT OR INCIDENT?		<input type="checkbox"/> NO <input checked="" type="checkbox"/> YES	IF YES, HAS 10.6 BEEN COMPLETED?		<input type="checkbox"/> NO <input checked="" type="checkbox"/> YES
SUPERVISOR APPROVING		SERIAL NO.	REPORTING OFFICER(S)		SERIAL NO. DIVISION
			J. FRANCO		30632 SOUTHWEST
DATE & TIME REPRODUCED		DIVISION	REPORTING OFFICER(S)		SERIAL NO. DIVISION
		CLERK			



BOOKING NO.	U.D.	LOC. BCD.	DR. LIC. NO.	STATE	MT
0480652		4273	A1013021	CA	N
ARRESTEE'S LAST NAME		FIRST	MIDDLE	SUF.	
MORRIS		CONDALEE			
ADDRESS		1503 S 127TH		APT. NO.	
CITY		COMPTON		STATE CA	
SEX	DESCENT	HAIR	EYES	HEIGHT	WEIGHT
M	B	BLK	BRD	509	170
VEH. LIC. NO.		STATE	R.D.	AKA: LAST- FIRST- OR NICKNAME	BIRTHDATE
				0395	050976
BIRTHPLACE		CA	PROD. INV. UNIT	JUV. DETAINED AT	AD. CHG.
LA		US	03		Y
DIVISION AND		DETAIL ARRESTING	DATE ARRESTED	TIME ARR.	TIME DCD.
4203		A	030405	0110	0927
LOCATION OF ARREST		1806 S 42ND ST		BAIL 100000	
TYP. CHARGE & CODE		DEFINITION		WARRANT NO. *	
F 211PC		ROBBERY			

DR	LA
050309786	
01166531	A10931857
04398798	276647CB3
ADMNITION OF RIGHTS (WHEN APPLICABLE)	
THE ADMNITION OF RIGHTS WAS READ VERBATIM PER FORM 15.03 BY:	
R. Gordon 2462	
SPE PG 4 OF RPT	
SERIAL NO.	
616070825	

ADDITIONAL CHARGES (ON ADD. WARR. LIST NO., COURT, AND BAIL BCL. P.A.)		COMTA07736301	12025(A)PC	50000	SOCIAL SECURITY NO.
					616070825
ARRAIGN. DATE	TIME	COURT	LOCATION CRIME COMMITTED	R.D.	RESIDENCE PHONE NO.
			SAA	0395	NONE
EMPLOYER / SCHOOL		HOLD FOR:			
OCCUPATION / GRADE		PHY. COD.		N/V	
CLOTHING WORN		EXACT LOCATION / DISPOSITION ARRESTEE'S VEHICLE		HOLD FOR:	
FLAID/SHT. BLU/PNTS		PED			
LIST CONNECTING RPTS BY TYPE & IDENTIFYING NOS		VEHICLE USED (YEAR, MAKE, MODEL, TYPE, COLORS, LIC. NO., ID MARKS)		PASSENGERS M F	
Pir 211 same DR.					
COMPLAINTS / EVID OF ILLNESS / INJURY WHOM TREATED		DRIVING VEH. (DIRECTIONS & NAME OF STREET) AT OR BETWEEN STREETS		RETAINED CASH DEPOSITED	
				NONE NONE	

INVOLVED PERSONS Code: V: VICTIM W: WITNESS P/A: ARRESTING PRIVATE PERS. TO: TRUE OWNER R: PERSON RPTD. 459: S: PERSON SECURING JUV: P - BOTH PARENTS G - GUARDIAN										
NAME	V & WS	SEX	DESC.	D.O.B.	ADDRESS	CITY	ZIP	PHONE	DAY	X
V1 RAYOS, HELADIO		M	H							
V2 RAYOS, KATHERINE		F	H							
V3 RAYOS, MATTHEW										

COMBINED CRIME REPORT		IF MULTI. ARRESTEES THIS SECTION & ABOVE CRIME RPT. CHECK BOX IS COMPLETED ON ONLY ONE FACE SHEET.		TYPE OFFENSE		VICT'S OCCUPATION	
DATE AND TIME CRIME OCCURRED		TYPE PROPERTY		TOTAL		FRT. DAMAGE TYPE PREMISES	
409 / BPV ONLY-POINT AND METHOD OF ENTRY		WEAPON / FORCE / INSTRUMENT USED		TFV / BPV ONLY-VICT'S VEH. (YR., MAKE, TYPE, LIC.)			
MD (UNIQUE ACTIONS)		C - PIR FACE SHEET					

COMBINED EVID. RPT.		USE THIS SECTION IN LIEU OF PROPERTY REPORT IF ONLY ONE ARRESTEE, NO GUN, AND NO MORE THAN 8 ITEMS OF EVID.		LOC. EVID. BCD.		10.10 GIVEN		Preliminary Drug Test		SUPV. / INV. OFCR. TESTING		SER. NO. / WITNESS OFCH.		SER. NO.	
ITEM QUAN. ARTICLE		SERIAL NO. / TYPE TEST OF DRUG		BRAND / DRUG WEIGHT UNITS		MODEL NO. / DRUG TEST RESULT		MISC.							
		SEE Prop		RPT											

APPROVAL / REPORTING OFFICERS		SUPERVISOR APPROVING		SERIAL NO.		RPT SHEET ATTACHED		REPORTING OFFICER(S)		SERIAL NO. / DUL & DETAIL		VARIATION	
		DET II RAYOS		6A 2462		YES		ZAVIAUA		36703 SOW		Sept	
		DATE & TIME REPRODUCED		DIV.		CLERK		Ponce		36692 SALS		PAST	

JENILE DISPO. Petition Request:		<input type="checkbox"/> DETAINED <input type="checkbox"/> RELEASED <input type="checkbox"/> NON-BOOK <input type="checkbox"/> NON-BOOK & WARR.		INVEST. OFCR.		SERIAL NO.		DIV. / CLERK			
ARGE, IF DIFFERENT THAN ORIGINAL CODE & DEFINITION		IF REFERRED, AGENCY & PETITION ACCEPTING REFERRAL		PROPERTY RECOVERED?		Y N		SUPERVISOR APPROVING		SERIAL NO.	
				IF YES, 10.6 COMPLETED?		Y N		JUV. COORD. REVIEWING		SERIAL NO.	
								DATE / TIME DISPO. REPROD.		DIV. / CLERK	

JSP. VULT		13 <input type="checkbox"/> EXON-INNOCENT		04 <input type="checkbox"/> CYA		18 <input type="checkbox"/> JUV. TRAF. MISD.		16 <input type="checkbox"/> DCS	
		12 <input type="checkbox"/> REL-INJUR. EVID.		03 <input type="checkbox"/> PROBATION		17 <input type="checkbox"/> FIRE DEPT.		<input type="checkbox"/> OTHER:	
		03 <input type="checkbox"/> COMMUNITY SERVICE		05 <input type="checkbox"/> CTH. LAW ENF. AGENCY		10 <input type="checkbox"/> DEPT. MENTAL HEALTH			

7-95) ARREST REPORT 5063000 245



## CONTINUATION SHEET

Los Angeles Police Department

PAGE NO. 2		TYPE OF REPORT Crime and Arrest				BOOKING NO. 8480652		DR NO. 0503-09786	
ITEM NO.	QUAN	ARTICLE	SERIAL NO	BRAND	MODEL NO.	MISC DESCRIPTION (EG. COLOR, SIZE, INSCRIPTIONS, CALIBER, REVOLVER, ETC)			DOLLAR VALUE

Victim 4: Rayos, Aaron DOB: 03-11-02  
 Victim 5: Rayos, Denise DOB: 09-15-82  
 Witness: Cortez, Kimberly DOB: 08-14-86

Suspect 2: M/H 505/130-140 19-23 yrs blk ski mask, blk hoody, blk pants (handgun)  
 Suspect 3: M/B 508-511/150-170 19-25 yrs blk hoody, blk pants (rifle or shotgun)  
 Suspect 4: M/B 504-505/130-140 20-25 yrs bald head, buck teeth, blk hoody, blk pants (handgun)

Source of Activity

On 03-04-05 at approximately 0105 hours my partner (Ofcr B Zavala #36703) and I (Ofcr B Ponce #36692) were on uniform patrol, in a marked black and white police vehicle assigned unit 3A15. We received a radio call of a burglary in progress at 1806 W 42<sup>nd</sup> Place. The comments of the radio call stated, "Person reporting stated person was attempting to break in, PR's husband instructed to get on the ground..." Incident #5063000245

Investigation

Upon arrival police helicopter AIR 3 (Ofcr Melton #22782 and Bolanos #26192) were above 1806 W 42<sup>nd</sup> Place, while the suspects were still inside. Ofcr Melton observed suspect Morris exit through the front door from 1806 W 42<sup>nd</sup> Place and run eastbound 42<sup>nd</sup> Place. Ofcr Melton observed suspect Morris tossing unknown objects from his person. Ofcr Melton then observed Morris walk on the west side of 1816 W 42<sup>nd</sup> Place and attempt to conceal an unknown object. The suspect continued to run westbound 42<sup>nd</sup> Place. AIR 3 directed us to the Morris' location and was taken into custody in front of 2003 W 42<sup>nd</sup> Place.

Approximately 2-3 minutes later Officer Melton directed additional officers next to 1816 W 42<sup>nd</sup> Place where he observed the suspect attempt to conceal an object. Officer Elsdon was able to recover the victim's handgun (item 1). Ofcr Melton did not observe anyone within that location other than officers.

Heladio Rayos stated that on 03-04-05 at approximately 0100 hours he was asleep in his room by himself. He heard loud banging and noises to the rear of the house. Heladio got up to investigate the noise. Four male black suspects, dressed in all black clothing, armed with guns then confronted Heladio. Suspect 1 pointed a large silver revolver at Heladio's head and ordered him to the ground. Heladio stated the suspect's demanded money and guns. While Heladio laid on the kitchen floor, the suspects kicked him several times causing Heladio to lose his breath and he was unable to talk. Suspect 1 continued to demand money. Heladio directed suspect 1 to his pants where he had approximately \$500 cash. Suspect 1 grabbed Heladio's pants and removed his money. Suspect 2 and 3 entered victim Katherine's room and also demanded money. Suspect 3 pointed either a rifle or shotgun at Katherine's head and also demanded money. Katherine, who was sleeping with her grandchildren (Aaron-3 yrs old and Mathew-8 yrs old), was ordered to victim Heladio's room and held against their will at gunpoint. Heladio observed suspect 2 grab Aaron and point a gun to his head, while holding him in a chokehold.

RS

## CONTINUATION SHEET

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Los Angeles Police Department

PAGE NO. 3		TYPE OF REPORT Crime and Arrest				BOOKING NO. 8480652		DR NO. 0503-09786	
ITEM NO.	QU AN	ARTICLE	SERIAL NO	BRAND	MODEL NO.	MISC DESCRIPTION (EG. COLOR, SIZE, INSCRIPTIONS, CALIBER, REVOLVER, ETC)			DOLLAR VALUE

Heladio could hear his wife, Katherine, plead with the suspects not to kill anyone and that she had more money in her purse. Heladio then observed his daughter (victim Denise) walk out of her room. Suspect 4, who pointed a handgun to her head, immediately confronted Denise. Heladio heard the police helicopter overhead and the suspects began to panic. That is when the suspects fled the location through the front and rear doors.

Heladio stated he complied with the suspect's demands because he feared for him and his family's life.

Katherine Rayos stated that on 03-04-05 at approximately 0100 hours she was sleeping in her room with her grandchildren (Aaron-3 yrs old and Mathew-8 yrs old). She heard a loud pounding noise and did not know where it was coming from. Katherine got up to investigate and walked to the kitchen area. She could hear someone pounding on the rear door, attempting to break in. Katherine backed away from the windows fearing someone would see and hurt her. She ran to her husband's room, Heladio, and alerted him that someone was attempting to break in. She then ran back to her room and closed the door. Katherine called 911. While on the phone, she heard a suspect coming to her door. She threw the phone under her bed as suspect 2 gained entry, armed with a rifle or shotgun. Suspect 2 instructed Katherine to get on her knees. Suspect 2 pointed his gun to her head and asked who she had called. Katherine told suspect 2 she had called her mother. Suspect 2 stated, "If you called the cops, I'm gonna kill you right now!" Katherine replied, "No. I didn't. I didn't call the cops." Suspect 2 then drug her to her husband's room. Katherine told suspect 2 not to leave her kids in the room by themselves. Suspect 3 grabbed Aaron (3 yrs old) with his left arm around his neck and pointed a gun to his head. Suspect 3 stated, "If you don't tell us where the money's at and the guns were gonna shoot him!" Katherine stated, "We don't have any money. We have one gun." Suspect 3 instructed her to get the gun and give it to him.

Katherine further stated that when she was forced to her husband's bedroom, suspect 1 approached her. Suspect 1 asked her where the safe was. She told him they didn't have one. Suspect 1 then choked and punched her in the face and pointed a gun to her head.

Katherine was able to observe suspects 2, 3, and 4 kick and punch her husband while he lay on the floor. She begged the suspects to stop beating her husband and not to kill him. Katherine, in fear for her family's life, offered the suspects a \$600 workers comp check she had received.

Katherine described suspect 2; M/H 505/130-140 19-23 years old wearing a black ski mask, black hooded sweater, and black pants. She believed the suspect was a Hispanic because she observed his skin color around his eyes and tone of voice.

Katherine is disabled and needs a wheel chair to get around. She also uses a cane to assist her to walk. Suspect Morris punched Katherine in her mouth causing her to fall to the ground.

Denise Rayos stated that on 03-04-05 at approximately 0100 hours she was sleeping in her bedroom with her sister (witness Kimberly). She heard loud pounding and later heard her parents yelling. Denise heard a loud commotion and unfamiliar voices telling her parents what to do. She locked her door and instructed her pregnant sister to call 911. Denise then stepped out of her room to find her child, Aaron. She observed her mother, Katherine, begging the suspects to leave and not to hurt anyone.

RG

## CONTINUATION SHEET

Los Angeles Police Department

PAGE NO. 4		TYPE OF REPORT Crime and Arrest				BOOKING NO. 8480652		DR NO. 0503-09786	
ITEM NO.	QU AN	ARTICLE	SERIAL NO	BRAND	MODEL NO.	MISC DESCRIPTION (EG. COLOR, SIZE, INSCRIPTIONS, CALIBER, REVOLVER, ETC)			DOLLAR VALUE

Denise heard a suspect say, "Shut up or I'll kill you!" Denise then observed three suspects beating her father up in the hallway. Denise then told the suspects not to hurt her family. Suspect 1 and 4 approached Denise, pointed their guns to her head, and told to "shut up". She observed one suspect using his cell phone talking to an unknown person. Denise then heard the police helicopter above and saw that the suspects began to panic. Denise opened the front door and took cover, allowing the suspects to leave the residence.

Kimberly Cortez stated she was asleep in her bedroom when she heard a loud commotion inside her house. She heard the suspects asking her mother, Katherine, if anyone else was inside the house. Katherine replied, "Yes. My daughters and she's pregnant and my kids." Kimberly then heard the suspect demanding money. She could also hear her mother pleading with the suspects not to hurt the children. Kimberly heard the suspects saying, "Tell me where the money's at or I'll kill you!"

Kimberly stated she never saw the suspects but their voices sounded like they were black males.

Oficer Zavala conducted a field show up admonition with Heladio, Katherine, and Denise. Each of the victims viewed suspect Morris separately.

Heladio stated, "That's him. That's one of them."

Katherine stated, "Yes. That's him. ~~He's the one who choked and cooked me in my face.~~"

Denise stated, "Yeah, that's him. I'm positive that's him."

I searched suspect Morris and recovered \$525 from his front right pocket. The money recovered was consistent with Heladio's statement and observation of what suspect Morris removed from his pants pocket. I counted, photographed, and returned the victim's property.

#### Arrest

Suspect Morris was arrested for 211 PC- 1<sup>st</sup> degree robbery and transported to Southwest Station.

#### Booking

The suspect was booked for 211 PC Robbery, and felony warrant COMTA07736301 for carrying a concealed firearm, \$50,000.00 bail, at Jail Division. We received booking approval from Det III Richards #16633. Officer Zavala recovered an additional \$55.00 from Morris and it was booked as evidence at Southwest Station.

#### Statements

Detective Gordon #24262, Southwest Area Homicide, admonished Morris of his Miranda Rights. Morris waived his rights and denied any involvement in the robbery. See videotape.

#### Injury/Medical

We observed approximately 8" of abrasions on Heladio's left side of neck. Also a 2" scratch on the left side of his neck, a 9" foot print on the left side of his torso, several small scratches on left side of face, and 1" scratch on right side of neck.

We observed a bruise on Katherine's upper lip. She also complained of pain throughout her body.

RG

## CONTINUATION SHEET

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Los Angeles Police Department

PAGE NO. 5		TYPE OF REPORT Crime and Arrest				BOOKING NO. 8480652		DR NO. 0503-09786	
ITEM NO.	QUAN	ARTICLE	SERIAL NO	BRAND	MODEL NO.	MISC DESCRIPTION (EG. COLOR, SIZE, INSCRIPTIONS, CALIBER, REVOLVER, ETC)			DOLLAR VALUE

Both victims stated they would seek their own medical treatment.

Photographs

SID Photographer G. Brod #N1328 photographed the crime scene and the evidence recovered. (C#278302)

Officer Zavala took digital photos of the injuries sustained by victims Heladio and Katherine Rayos.

Evidence

Officer Elsdon #36810 recovered items 1-3 on the west side of 1816 W 42<sup>nd</sup> Place, inside a planter.

Officer Zavala recovered items 4 and 5 inside 1806 W 42<sup>nd</sup> Place.

Officer Zavala recovered item 6 in front of 1810 W 42<sup>nd</sup> Place, on the sidewalk.

Officer Zavala recovered item 7 inside Heladio's bedroom.

Officer Zavala recovered items 8-10 in the kitchen area.

Officer Ponce recovered items 11-13 from the suspect at Southwest Station.

*See property report for more details.*

Additional

We notified SID, latent prints section. Earls, T #C8866 responded and took prints of the crime scene and evidence recovered by officers.

RHD and night watch detectives were also notified.

I spoke with witness 2 (Treva) who resides at 1800 W 42<sup>nd</sup> Place. She stated that on 03-01-05 at approximately 0010 she came home from work and observed a suspicious vehicle (small 2dr black compact vehicle) stopped facing eastbound 42<sup>nd</sup> Place at St Andrews Pl. The vehicle was stopped at the stop sign for approximately two minutes.

On 03-02-05 at approximately 0015 hours she again observed the same vehicle stopped at the stop sign for approximately 10 minutes.

On 03-04-05 at approximately 0045 hours she heard two vehicles park on St Andrews Pl south of 42<sup>nd</sup> Place. She described vehicle 1 (white small compact veh poss Toyota Camry) parked on St Andrews Pl facing northbound. Vehicle 2 (black stationwagon) parked on St Andrews facing southbound. Treva then heard the police helicopter overhead and her dog barking. Treva observed veh 1 go northbound St Andrews Pl then eastbound 42<sup>nd</sup> Pl. Vehicle 2 went southbound St Andrews Pl to unknown direction.

RG

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Los Angeles Police Department

## CONTINUATION SHEET

PAGE NO. 6		TYPE OF REPORT Crime and Arrest				BOOKING NO. 8480652		DR NO. 0503-09786	
ITEM NO.	QU AN	ARTICLE	SERIAL NO	BRAND	MODEL NO.	MISC DESCRIPTION (EG. COLOR, SIZE, INSCRIPTIONS, CALIBER, REVOLVER, ETC)			DOLLAR VALUE

Court Information

Ofer Ponce interviewed victims and witness.  
Ofer Zavala/Eldson/Ponce recovered evidence.  
Ofer Zavala took photos of victim's injuries.  
Ofer Ponce completed arrest report.  
Detective Gordon admonished the suspect his Miranda rights.  
Ofer Melton/Bonalos observed the suspect leave crime scene.

nc



Page 9 of 11 **PROPERTY REPORT**

DATE AND TIME OF THIS REPORT <b>3-4-05 0610</b>		DATE PROPERTY BKG. <b>3-4-05</b>		IF RELATED TO PREVIOUSLY BOOKED EVIDENCE, ORIG. EVID. BKG. TO (IN THIS CASE COMPLETE ENTIRE REPORT)		DATE ORIG. EVID. TAKEN INTO CUSTODY <b>03-03-05</b>	
RESIDENCE ADDRESS				CHARGE BKG. DR <b>BKG. # 8480652</b>			
RESIDENCE ADDRESS (BUS. ADDRESS IF VICT. IS BUSINESS)				R- <input checked="" type="checkbox"/> X			
RESIDENCE ADDRESS				B- <input type="checkbox"/>			
AREA OR CITY, & DATE CRIME OCCUR.				R- <input type="checkbox"/>			
TYPE OF PREMISES				B- <input type="checkbox"/>			
DEPT. EMPLOYEE IF BOOKED TO				SERIAL NO.			
DIVISION				IS THIS STOLEN PROPERTY?			
IS THIS STOLEN PROPERTY?				PRIORABLE CRIME			
DATE & TIME PROP. TAKEN INTO POLICE CUSTODY - LOCATION -				RD, OR CITY IF OUTSIDE			
IS THIS FOUND PROPERTY?				DATE & TIME FOUND PROPERTY DISCOVERED			
- LOCATION DISCOVERED -				RD, OR CITY IF OUTSIDE			

INVESTIGATIVE UNIT <b>Sow</b>	PROP. BKG. AT <b>Sow</b>	NOTIFICATIONS- PERSONS & UNITS <b>Sow</b>	CONNECTING REPORTS - TYPE & DR
Use Of Evidence Continuation: Use only with Arrest Report or, if no Arrest Report, with PIR. Do not use if evidence is related to previously booked evidence. To book evidence, staple this page on top of Arrest face sheet (or PIR face sheet, if no arrest) and forward with evidence:			

ITEM NO.	QUANTITY	DESCRIPTION	SERIAL NO.	TYPE	TEST OF	BRAND/DRUG WEAPON	MODE/NO/DRUG	MARKS/COLOR/SIZE/INSCRIPTION
----------	----------	-------------	------------	------	---------	-------------------	--------------	------------------------------

1	1	HANDGUN	MU41546	COLT		MUSTANG 80	BLK SEMI-AUTO 380 CAL
2	1	MAGAZINE	-	COLT		-	BLK MAGAZINE
3	5	LIVE ROUNDS	-	CBL			380 Auto
4	2	LIVE ROUNDS		PMC			38 SPECIAL
5	1	LIVE ROUNDS		45M			9mm LUGER
6	1	NARCOTICS	-	15.55g			OFF WHT POWDERLY SUBSTANCE CLEAR PLASTIC BAGGIE CONTAINING
7	1	CROW BAR	-	Vaughan			BLK IN COLOR
8	1	Box cutter	-	-			Grey w/ NAME OF "RAY" ON SIDE
9	1	Duck TAPE	-	-			Grey in color
10	1	BACK PACK	-	EVEREST			BLK IN COLOR w/ GRAFFITI MARKINGS

Preliminary Drug Test	SUPERVISOR/INVESTIGATING OFFICER TESTING		SERIAL NO.	WITNESSING OFFICER	SERIAL NO.
Search Warrant Info	DATE	ISSUED BY JUDGE	COURT NO.		
SUPERVISOR APPROVING	SERIAL NO.	REPORTING EMPLOYEE	SERIAL NO.	DIV.	DETAIL
DATE & TIME REPRODUCED	DIVISION	CLERK	PERSON REPORTING (SIGNATURE)		

ITEM NO.	QUAN	ARTICLE	SERIAL NO. / TYPE TEST OF DRUG	BRAND / DRUG WEIGHT, UNITS	MODEL NO. / DRUG TEST RESULT	MISC. COLOR, SIZE, ETC.
11	1	SWEATER		ROCA WAR		BLK IN COLOR worn by SUSP 1
12	1	PANTS				BLACK IN COLOR 152
13	2	Shoes				BLACK IN COLOR
14	1	NARCO		25.80g		WHT POWDR SUBSTANCE CLEAR PLASTIC BAGGIE CONTAINING OFF
15	1	NARCO		4.74g		WHT POWDR SUBSTANCE CLEAR PLASTIC BAGGIE CONTAINING OFF

IG  
CA0194203 RE: QGB.CA0194203.SER/MU41546  
RESPONSE TO QGB INQUIRY  
NO RECORD IN AFS  
CHECKING NCIC  
END AFS RESPONSE.

OUTPUT MSG 307.

FROM

SW01YYY03/04/2005 05:29

CLASSIFIC/  
Evidence -  
Non-Eviden

PROPERTY  
Evidence -  
sequence.)

possessor. 5. If 1, 2, 3, and 4 do not apply, book to Department employee.

Non-Evidence - 1. Book to owner. 2. If ownership cannot be determined.

EXCEPTION: When non-evidence is removed from a vehicle, and the owner is not known, book it to the employee.

ers in  
owner or

#### REPORTS REQUIRED FOR BOOKING EVIDENCE:

The employee booking the evidence shall ensure that the correct property information is forwarded with the evidence. (Two copies of reports are required if the evidence is narcotics or firearms, or if blood or urine is booked within O-VB.)

If the Property Report is an evidence continuation page of an Arrest Report or PIR, staple the Property Report on top of the related Arrest Report (or PIR if no Arrest Report); and forward with evidence.

NOTE: If multiple arrestees are involved, the face sheet stapled to the property Report should be that of the arrestee to whom the evidence is booked.

#### EXCEPTIONS TO USE OF COMBINED EVIDENCE / ARREST or PIR:

Use a Property Report completed in its entirety and distributed separately when:

- Evidence is related to previously booked evidence.
- Evidence is booked to other than the primary victim (listed at top) of a multiple victim PIR.
- Reporting more than one license plate (or set of plates). One plate may be reported using the combined procedure. Each additional plate (or set of plates) requires a separate complete Property Report and a separate Vehicle DR number.
- The reporting employee's supervisor determines that a separate complete Property Report would be a more expeditious means of booking the evidence under the given circumstances.

**DISTRIBUTION OF COMBINED REPORT (Records Unit):** Distribute the Property Report as a page of the related Arrest Report and PIR. In addition to the distribution, forward one copy of the Property Report independently as follows:

- R & I CMRS (with ADRIS printout) if there is no crime report involved; i.e., if the report is a combined arrest / evidence.
- R & I Crime and Property TT Unit Supervisor, if a firearm is booked. Forward that copy without delay.

#### EVIDENCE SEIZED DURING SERVICE OF A SEARCH WARRANT:

- (1) Items seized which were LISTED on the search warrant shall be listed on the Property Report under the heading "Seized Pursuant to the Search Warrant - Listed".
- (2) Items seized which were NOT LISTED on the search warrant shall be listed on the Property Report under the heading "Seized Pursuant to the Search Warrant - Unlisted" AND shall start with the next sequential item number.

RL



# FIREARMS SUPPLEMENTAL PROPERTY REPORT

153

Department employees shall complete the following form for each firearm booked. This form shall become a page of the Property Report, Form 10.01.0, and continue the page numbering sequence. Additional firearms with the same possessor, associates, recovery location, and recovery date and time may be listed on Firearms Supplemental Continuation Sheet, Form 10.01.02, which shall become a page of the Property Report, Form 10.01.0, and continue the page numbering sequence. For additional associates, use appropriate copies of this form as needed.

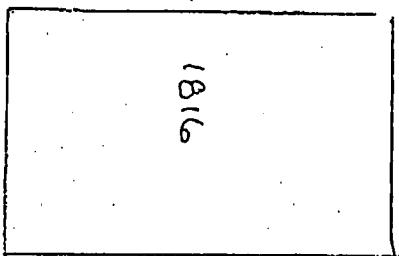
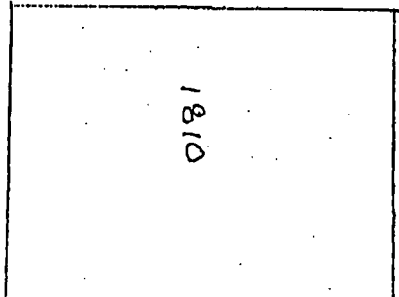
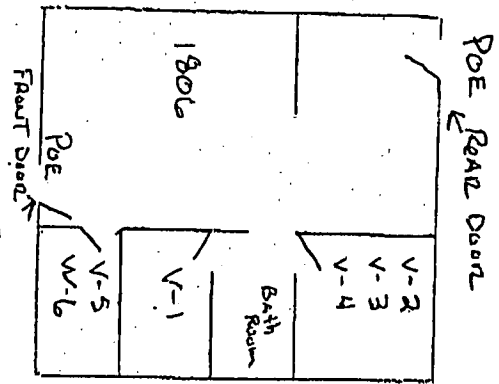
FIREARM DESCRIPTION																											
1. ITEM	2. MANUFACTURER	3. TYPE*	4. CATEGORY**	5. MODEL	6. CALIBER	7. BARREL LENGTH																					
1	COLT	P	A	SERIES 80 MUSTANG	380	2 1/2																					
8. SERIAL NUMBER		9. OTHER MARKINGS OR INFORMATION (finish, grips, etc.)				10. COUNTRY OF ORIGIN		11. IMPORTER (Name, City and State)																			
mu41546		-				US		HARTFORD, CT USA																			
12. WAS FIREARM USED IN A CRIME? NCIC CODE: 1207				13. WAS FIREARM SUSPECTED OF HAVING BEEN USED IN A CRIME? NCIC CODE: 1207				14. YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>																			
15. WAS FIREARM ILLEGALLY POSSESSED? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> UNK				16. WAS FIREARM REPORTED STOLEN? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO																							
FIREARM POSSESSOR AND/OR ASSOCIATE INFORMATION																											
1. NAME OF FIREARM POSSESSOR (Last, First, Middle)				2. DOB		3. PLACE OF BIRTH		4. HT		5. WT		6. SEX		7. RACE													
RAVOS, Katherine				11-26-64		LA		501		170		F		H													
8. STREET ADDRESS				9. APT. NO.		10. CITY		11. STATE		12. ZIP CODE																	
1806 W 42ND PL				-		LA		CA		90008																	
13. IDENTIFICATION TYPE (Driver License, DMV ID, Social Security Card, Etc.)				14. STATE		15. IDENTIFICATION NUMBER																					
1. NAME OF ASSOCIATE (Last, First, Middle)				2. DOB		3. PLACE OF BIRTH		4. HT		5. WT		6. SEX		7. RACE													
STREET ADDRESS				9. APT. NO.		10. CITY		11. STATE		12. ZIP CODE																	
13. IDENTIFICATION TYPE (Driver License, DMV ID, Social Security Card, Etc.)				14. STATE		15. IDENTIFICATION NUMBER																					
1. NAME OF ASSOCIATE (Last, First, Middle)				2. DOB		3. PLACE OF BIRTH		4. HT		5. WT		6. SEX		7. RACE													
STREET ADDRESS				9. APT. NO.		10. CITY		11. STATE		12. ZIP CODE																	
13. IDENTIFICATION TYPE (Driver License, DMV ID, Social Security Card, Etc.)				14. STATE		15. IDENTIFICATION NUMBER																					
1. NAME OF ASSOCIATE (Last, First, Middle)				2. DOB		3. PLACE OF BIRTH		4. HT		5. WT		6. SEX		7. RACE													
STREET ADDRESS				9. APT. NO.		10. CITY		11. STATE		12. ZIP CODE																	
13. IDENTIFICATION TYPE (Driver License, DMV ID, Social Security Card, Etc.)				14. STATE		15. IDENTIFICATION NUMBER																					
FIREARM RECOVERY INFORMATION																											
1. DATE		2. RD		3. RECOVERING OFFICER'S SERIAL NO.		4. PROB. INVEST. UNIT		5. PENAL CODE SECTION		6. CRIME TITLE																	
4-05				ELSON		SOW		211		Robbery																	
7. STREET ADDRESS				8. APT. NO.		9. CITY		10. COUNTY		11. STATE		12. ZIP CODE															
316 W 42ND PL				-		LA		CA		CA		90008															
* Use the following codes to denote the "Type" of weapon:												** Use the following codes to denote the "Category" of weapon:															
Cannon Submachine Gun Rifle/Shotgun Combination Grenade				K - Rocket M - Machine Gun O - Mortar P - Pistol				R - Rifle S - Shotgun T - Tear Gas Gun V - Silencer Z - All Others				A - Automatic B - Bolt Action C - Carbine D - Derringer E - Side by Side F - Flare Gun				G - Gas or Air H - Flintlock I - Semi-Automatic J - Jet Propulsion K - Blank Pistol L - Lever Action				M - Machine N - Launcher O - Over/Under P - Pump Q - Antique R - Revolver				S - Single Shot T - Recoilless U - Percussion W - Three Barrels X - 4 + Barrels			

N

Alley

Page of

150



Item 1+2+3

SIDEWALK

Item 6

CONTINUT NET NEWBORN (323) 913-4721

Light post (possible camera)

42 NO PL

V-1 Through 6 ARE SHOWN WHERE THEY WERE PRIOR TO 211.

DATE THIS REPORT 3-7-05	DATE ORIGINAL RPT. 3-5-05	SPECIFIC TYPE ORIG. RPT. (ADW, TFV, EVID, ARREST/BURG, ETC.) Robbery	RD 395	PCD	DR						
VICTIM BOOKED TO ARREST/ISSUED ON ORIGINAL REPORT MORRIS, CONDALE		IF RECLASSIFYING TO HOMICIDE SEX DECEASED	AGE	BKG. NO. (SUPPL. TO ARREST) 0503 09786	WORK FOLDER PCMOO ORIG. RPT. INDEX NO.						
CASE STATUS 1 CLEARED BY ARREST 2 CLEARED OTHER 3 REPORT UNFOUNDED 4 INVESTIGATION CONTINUED											
Use this section only to add or correct info - do not repeat info from previous reports. Exception: Complete entire suspect info if making final disposition.											
DATE OCCURRED	MO DAY YEAR	CHANGE TO-ON OR BTWN TIME	& MO DAY YEAR TIME	TYPE ORIG RPT. CHG. TO	RD - CHG. TO OR CHANGE TO INV. DIV CHANGED TO						
PROPERTY VALUE:	ADDITIONAL LOSS \$	PARTIAL RECOVERY \$	TOTAL RECOVERY \$	DELETE FROM ORIGINAL REPORT \$	DESCRIPTION CHANGE						
S-1	SEX	DESC	HAIR	EYES	HEIGHT	WEIGHT	DOB	AGE	NAME & ADDRESS (OR NAME & CHARGE, IF ARRESTED)	ACTION TAKEN	LA OR BKG NO.
2									NAME & ADDRESS (OR NAME & CHARGE, IF ARRESTED)	ACTION TAKEN	LA OR BKG NO.
3									NAME & ADDRESS (OR NAME & CHARGE, IF ARRESTED)	ACTION TAKEN	LA OR BKG NO.

P/T/D	MULTIPLE RPT. PCD & DR NOS.	TYPE OF CRIME	RD	VICTIM'S NAME	DATE ORIG. RPT.	VALUE
-------	-----------------------------	---------------	----	---------------	-----------------	-------

ON PRIOR RPT ITEM 14 ADD WEIGHT 25.80<sup>99</sup>, ITEM 15 ADD WEIGHT 4.74g, IN NARRATIVE  
ADD: Substance Resembling Cocaine, Test For Cocaine.

IN NARRATIVE ADD -

ON 3-5-05 AT APPROX 1630 HOURS MY PARTNER AND I CONDUCTED A FOLLOW-UP TO 1806  
W 42ND PL. WE FELT THAT WE MAY BE ABLE TO RECOVER ADDITIONAL ITEMS  
DURING DAYLIGHT HOURS. I ALSO RECOVERED ITEM 14 AND ITEM 15 (CLEAR PLASTIC  
BAGGIE CONTAINING WHIT POWDER SUBSTANCE RESEMBLING COCAINE), IN FRONT OF  
1806 W 42ND PL ON THE SIDEWALK.

WHEN MY PARTNER AND I CONDUCTED OUR INVESTIGATION, WE OBS. THE  
REAR DOOR SCREEN AND WOODEN DOOR WERE OPEN. THE SCREEN DOOR  
LOCK HAD BEEN DAMAGED AND THE WOODEN DOOR WAS BROKEN AT THE DEAD  
BOLT. THE WOODEN DOOR LOCK WAS ON THE GROUND AND THE WOODEN DOOR  
WAS SEVERELY DAMAGED.

VAS PROPERTY BOOKED IN CONJUNCTION WITH THIS REPORT OR INCIDENT?		<input checked="" type="checkbox"/> NO <input type="checkbox"/> YES	IF YES, HAS 10.6 BEEN COMPLETED?		<input type="checkbox"/> NO <input type="checkbox"/> YES
SUPERVISOR APPROVING [Signature]	SERIAL NO. 30162	REPORTING OFFICER(S) [Signature]	SERIAL NO. 36703	DIVISION [Signature]	
DATE & TIME REPRODUCED	DIVISION	CLERK	Ponce	36692	SCW

± 5065000 245

SHOTS FIRED  
USE OF FORCE  
NARCOTICS STOLEN - NARC. DIV.  
DSD (GAS) / CRASH  
FIREARM STOLEN / LOST - DIV. A, RAI  
CRIME / PROPERTY IT 3P/4P

PRELIMINARY CASE SCREENING				ROBBERY			
<input type="checkbox"/> SUSPECT / VEHICLE NOT SEEN <input type="checkbox"/> PRINTS OR OTHER EVIDENCE NOT PRESENT <input type="checkbox"/> MO NOT DISTINCT <input checked="" type="checkbox"/> PROPERTY LOSS LESS THAN \$5000 <input checked="" type="checkbox"/> NO SERIOUS INJURY TO VICTIM <input type="checkbox"/> ONLY ONE VICTIM INVOLVED				INVEST DIV SOW DR 050309786			
PREMISES (SPECIFIC TYPE) Single family residence				ATM -			
ENTRY 450B/FV POINT OF ENTRY POINT OF EXIT <input type="checkbox"/> FRONT Door Point of Entry <input checked="" type="checkbox"/> REAR Door Point of Entry <input type="checkbox"/> SIDE <input type="checkbox"/> ROOF Pried open <input type="checkbox"/> FLOOR INSTRUMENT / TOOL USED <input type="checkbox"/> OTHER Crow bar				LOCATION OF OCCURRENCE SAME AS V/S <input checked="" type="checkbox"/> REG. <input type="checkbox"/> BUS. R.D. 395 DATE & TIME OF OCCURRENCE 3/4/05, 0108 hours 3/4/05, 0110 hours TYPE PROPERTY STOLEN / LOST / DAMAGED <input type="checkbox"/> 3.4 GIVEN <input type="checkbox"/> STOLEN/LOST \$580.00 \$580.00 U.S. currency, Handgun			
VICT'S VEH. (IF INVOLVED) YEAR, MAKE, TYPE, COLOR, LIC. NO. N/A				NOTIFICATIONS (PERSON & DIVISION) SID Prints/Photos/SW Dets			
MO IF LONG FORM, LIST UNIQUE ACTIONS. IF SHORT FORM, DESCRIBE SUSPECT'S ACTIONS IN BRIEF PHRASES, INCLUDING WEAPONS USED. REPORT AS NECESSARY. IF ANY OF THE MISSING ITEMS ARE POTENTIALLY IDENTIFIABLE, ITEMIZE AND DESCRIBE ALL ITEMS MISSING IN THIS INCIDENT IN THE NARRATIVE. Susps entered through rear door using pry tool, susps ransacked residence and threatened victims at gunpoint - susps demanded money, physically assaulted victims, then removed victim's property. Susps fled from location on foot.				MOTIVATED BY HATRED / PREJUDICE <input type="checkbox"/> DOMESTIC VIOLENCE <input type="checkbox"/>			
REPORTING EMPLOYEE(S) INITIALS, LAST NAME SERIAL NO. DIV. / DETAIL B. Zavala 36703 SOW 3A15 B. Ponoc 36692 SOW 3A15				PERSON REPORTING SIGNATURE OR RECEIVED BY PHONE - <input type="checkbox"/> Addendum to Arrest Report Face Sheet NOTE: IF SHORT FORM AND VICTIM / PR ARE NOT THE SAME, ENTER PR INFORMATION IN INVOLVED PERSONS SECTION.			
Complete below sections if any Preliminary Case Screening boxes are not checked.							
SUSP'S VEHICLE		YEAR	MAKE	MODEL	TYPE	Interior	Exterior
COLOR(S)			NVS			<input type="checkbox"/> 1 BUCKET SEATS <input type="checkbox"/> 2 DAMAGED INSIDE	<input type="checkbox"/> 1 CUSTOM WHEELS <input type="checkbox"/> 2 PAINTED INSCRIPT <input type="checkbox"/> 3 LEVEL ALTERED <input type="checkbox"/> 4 RUST / PRIMER <input type="checkbox"/> 5 CUSTOM PAINT <input type="checkbox"/> 6 VINYL TOP
VEH. LIC. NO.			STATE				Body
							<input type="checkbox"/> 1 DAMAGE <input type="checkbox"/> 5 RIGHT <input type="checkbox"/> 2 MODIFIED <input type="checkbox"/> 6 FRONT <input type="checkbox"/> 3 STICKER <input type="checkbox"/> 7 REAR <input type="checkbox"/> 4 LEFT
Windows							<input type="checkbox"/> 1 DAMAGE <input type="checkbox"/> 5 RIGHT <input type="checkbox"/> 2 CUST. <input type="checkbox"/> 6 FRONT <input type="checkbox"/> 3 CURTAINS <input type="checkbox"/> 7 REAR <input type="checkbox"/> 4 LEFT
SEX	DESC	HAIR	EYES	HEIGHT	WEIGHT	AGE	CLOTHING
S-1	M	Black	Blk	Bro	509	170	28
PERSONAL ODDITIES (UNUSUAL FEATURES, SCARS, TATTOOS, ETC.)							Weapon (VERBAL THREATS, BODILY FORCE, SIMULATED GUN, ETC. IF KNIFE OR GUN, DESCRIBE FULLY) Handgun/Bodily force
S-2	M						Handgun/Bodily force
INVOLVED PERSONS W - WITNESS R - PERSON RPTG. S - PERSON SECURING (450) D - PERSON DISCOVERING (450) P - PARENT CP - CONTACT PERSON (DOMESTIC VIOLENCE)							
W	NAME	SEX	DESC	DOB	ADDRESS	CITY	ZIP
	CORTIZ, KIMBELY	F	Hisp	8/14/86	Care of Investigating Officer		
	DR. LIC. NO. (IF NONE, LIST OTHER ID & NO.)	FOREIGN LANGUAGE SPOKEN (IF APPLICABLE)					
COMBINED EVID. RPT. USE THIS SECTION IN LIEU OF PROPERTY REPORT IF NO GUN AND NO MORE THAN THREE ITEMS OF EVIDENCE							
ITEM	QUAN.	ARTICLE	SERIAL NO./TYPE TEST OF DRUG	BRAND / DRUG WEIGHT, UNITS	MODEL NO. / DRUG TEST RESULT	MISC.	
SEE PROP RPT							
NARRATIVE 1) LIST ADD'L SUSPS. & INVOLVED PERSONS. 2) RECONSTRUCT OCCURRENCES, INCL. ALL ELEMENTS OF CORPUS DELICTI. 3) IF NOT USING EVID. CONTINUATION FORM, DESCRIBE EVIDENCE INCLUDE PRINTS, STATE LOCATION FOUND AND BY WHOM. GIVE DISPOSITION. 4) SUMMARIZE OTHER DETAILS, INCL. WHEN AND WHERE PERSONS WITH NO PHONE CAN BE LOCATED. 5) INDICATE TYPE OF TRANSLATOR NEEDED FOR ANY INVOLVED PERSON. 6) LIST ITEMS MISSING.							
VICTIM IDENTIFICATION (IF APPLICABLE)				IS ANY OF THE VICTIM'S PROPERTY MARKED WITH AN OWNER APPLIED IDENTIFICATION NUMBER? YES <input type="checkbox"/> NO <input type="checkbox"/>			
APPROVAL AND REVIEW SUPERVISOR APPROVING DET II R. Gade DATE & TIME REPRODUCED 3/5/05 0700				DETECTIVE SUPERVISOR REVIEWING SERIAL NO. 24262 Category			

16 ID No. 5063000245

## CITY ATTORNEY DISCLOSURE STATEMENT

OFFICERS - FORM TO BE COMPLETED ON ALL FELONY AND MISDEMEANOR ARRESTEES  
 DETECTIVES - FORM TO BE FILED WITH CITY ATTORNEY ONLY  
 Answer all questions to the best of your personal knowledge.

Type of Report <u>ARR</u>	Booking No. <u>8480652</u>	DR No. <u>050309786</u>
------------------------------	-------------------------------	----------------------------

1. Reports: To your knowledge, what reports (except personnel investigations) were prepared in relation to this investigation?  
☒ Arrest ☒ Crime ☒ Property ☒ PCD ☐ Follow-up ☐ Vehicle (CHP180) ☐ CHP555  
☐ DMV-DS367 Other: \_\_\_\_\_

2. The following items exist: Photographs (include C#) 278302 Video tape YES (STATEMENTS)  
 Audio tape (including officer's personal tape) ☒ YES ☐ NO Other: \_\_\_\_\_

3. Has there been or is there a pending Use of Force investigation? ☐ YES ☒ NO  
 If YES, provide the name and serial number of supervisor conducting investigation.

Name \_\_\_\_\_ Serial No. \_\_\_\_\_

4. List the NAME, ADDRESS, PHONE NUMBER and DATE OF BIRTH of all CIVILIAN WITNESSES not named in any report(s), whether interviewed or not.

Name	Address	Phone No.	DOB

5. List the NAME, SERIAL NUMBER, ASSIGNMENT and ROLE of all OFFICERS not named in the report(s) who were percipient witnesses or otherwise involved in this incident:

Officer Name	Serial No.	Assignment	Officer's Role

6. List the NAME, SERIAL NUMBER, DEPARTMENT/AGENCY and UNIT NUMBER of all FIRE DEPARTMENT and EMERGENCY MEDICAL PERSONNEL who responded to this incident, but were not named on the report(s):

Name	Serial No.	Department/Agency	Unit No.

7. List any SUSPECT(S) STATEMENT(S) not included in any report(s):

8. List any CIVILIAN WITNESS(ES) STATEMENT(S) not included in any report(s):

9. Are there any RETAINED OFFICER NOTES or DIAGRAMS not included in any report(s)? ☐ YES ☒ NO  
 If YES, identify:

Officer	Serial No.	Assignment	Item

10. List any known facts not included in any report(s) that might be considered as favorable to the defense or damaging to the prosecution, or which might negatively reflect on the credibility of any prosecution witness:

All of the answers to the above questions are true to the best of my personal knowledge.

Signature	Serial No.	Div. of Assignment	Role in Arrest	Date
<u>[Signature]</u>	<u>36703</u>	<u>SW</u>	<u>ARR/BKD</u>	<u>3/4/05</u>
<u>[Signature]</u>	<u>36692</u>	<u>SW</u>	<u>ARR/RPT</u>	<u>3/4/05</u>



# LOS ANGELES POLICE DEPARTMENT



**WILLIAM J. BRATTON**  
Chief of Police

**ANTONIO R. VILLARAIGOSA**  
Mayor

P. O. Box 30158  
Los Angeles, California 90030  
Telephone: (213) 978-2100  
TDD: (877) 275-5273  
Reference Number: 14.4

January 18, 2008

Mr. Condalee Morris  
V-96203, B-4-220  
Calipatria State Prison  
P.O. Box 5003  
Calipatria, CA 93322

Dear Mr. Morris:

I have reviewed your request for records pertaining to an incident that occurred on March 4, 2005, involving yourself that is documented under Booking No. 8480652 and DR No. 05-0309786.

In accordance with Government Code Section 6254(f), subsections (f)(1) and (f)(2), records of investigations conducted by, or investigatory files compiled by, any local police agencies for law enforcement purposes are exempt from disclosure under the Act. While Section 6254(f) and its subparts do set forth a list of specific information that must be disclosed from law enforcement investigatory files, this list of information does not include the disclosure of the actual documents and need only be provided if it relates to contemporaneous law enforcement activity (see *Court of Los Angeles v. Superior Court (Kusar)* (1993) 18 Cal. App. 4<sup>th</sup> 588.) The records are investigative and non-contemporaneous; therefore, I am denying your request.

If you have any questions regarding this correspondence, please contact the Discovery Section at (213) 978-2100 and ask to speak with a Letter Request Analyst.

Very truly yours,

**WILLIAM J. BRATTON**  
Chief of Police

A handwritten signature in black ink, appearing to read "Ray D. Crisp".

**RAYMOND D. CRISP**, Senior Management Analyst  
Officer-in-Charge, Discovery Section  
Risk Management Group

8. Did you appeal from the conviction, sentence, or commitment? ☒ Yes. ☐ No. If yes, give the following information:

a. Name of court ("Court of Appeal" or "Appellate Dept. of Superior Court"):

In the Superior Court of the state of California in the county of LA  
multiple punishment in count 2-6 did violate

b. Result denied P.C. 654

c. Date of decision: Oct 30, 2007

d. Case number or citation of opinion, if known: BA279836 / B18547C

e. Issues raised: (1) The trial court submit to the jury an erroneous legal theory as to  
count 6 @ multiple punishment on count 2 @ 6 violated P.C. section 654 @ multiple  
punishment on count 2 @ 9 violated P.C. 654 (4) imposition of upper term on firearm  
use enhancement pertaining to count 9 @ 10 violated his right to a jury and proof  
beyond a reasonable doubt (5) imposition of an upper term on his conviction  
on count 1 violated his right to a jury trial @ proof beyond a reasonable doubt

f. Were you represented by counsel on appeal? ☒ Yes. ☐ No. If yes, state the attorney's name and address, if known:

Victoria H Stafford 6114 La Salle Ave #161 Oakland CA 94611

9. Did you seek review in the California Supreme Court? ☒ Yes ☐ No. If yes, give the following information:

a. Result Petition for review denied

b. Date of decision: 12-12-2007

c. Case number or citation of opinion, if known: 3157856

d. Issues raised: (1) whether punishment for both the assault in count 9 and robbery  
in count 2 violates Penal code 2654  
(2) whether appellant right to due process and a fair trial were violated  
when the prosecutor submitted count 6 to the jury on a legally incorrect  
(3) the court decision in black II uphold the imposition of an upper term  
based on prior conviction on which the trial court did not rely on

10. If your petition makes a claim regarding your conviction, sentence, or commitment that you or your attorney did not make on appeal, explain why the claim was not made on appeal:

My appellant lawyer told me my ground ~~about~~ ~~was~~  
~~good~~ or not good at all

#### 11. Administrative Review:

a. If your petition concerns conditions of confinement or other claims for which there are administrative remedies, failure to exhaust administrative remedies may result in the denial of your petition, even if it is otherwise meritorious. (See *In re Muszalski* (1975) 52 Cal.App.3d 500 [125 Cal.Rptr. 286].) Explain what administrative review you sought or explain why you did not seek such review:

b. Did you seek the highest level of administrative review available? ☐ Yes. ☐ No.

Attach documents that show you have exhausted your administrative remedies.



12. Other than direct appeal, have you filed any other petitions, applications, or motions with respect to this conviction, commitment, or issue in any court? ☒ Yes. If yes, continue with number 13. ☐ No. If no, skip to number 15. MC-275

13. a. (1) Name of court: In the Superior court of the state of California in County of L  
 (2) Nature of proceeding (for example, "habeas corpus petition"): Habeas Corpus  
 (3) Issues raised: (a) Punishment on count 1@2 violated P.C 654 Punishment on count 1@10 violated P.C 654  
 (b) The challenge of the show-up procedure in count 1  
 (4) Result (Attach order or explain why unavailable): Order Denying writ of Habeas Corpus  
 (5) Date of decision: May 27, 2008
- b. (1) Name of court: In the superior court of state of California in county of Los Ange  
 (2) Nature of proceeding: additional Habeas Corpus petition  
 (3) Issues raised: (a) The appellate was subjected to a 'non exigent' show-up procedure by the LAPD an without being personally present with coun  
Mr Lieberman violated the due Process Clause of the fourteenth  
 (b) Amendment for failure to disclose 'Material Evidence to the Defense.  
 (4) Result (Attach order or explain why unavailable): \_\_\_\_\_  
 (5) Date of decision: \_\_\_\_\_
- c. For additional prior petitions, applications, or motions, provide the same information on a separate page.

14. If any of the courts listed in number 13 held a hearing, state name of court, date of hearing, nature of hearing, and result:

15. Explain any delay in the discovery of the claimed grounds for relief and in raising the claims in this petition. (See *In're Swain* (1949) 34 Cal.2d 300, 304.)

16. Are you presently represented by counsel? ☐ Yes. ☒ No. If yes, state the attorney's name and address, if known:

17. Do you have any petition, appeal, or other matter pending in any court? ☐ Yes. ☒ No. If yes, explain:

18. If this petition might lawfully have been made to a lower court, state the circumstances justifying an application to this court:

I, the undersigned, say: I am the petitioner in this action. I declare under penalty of perjury under the laws of the State of California that the foregoing allegations and statements are true and correct, except as to matters that are stated on my information and belief, and as to those matters, I believe them to be true.

Date:

8/16/08

(SIGNATURE OF PETITIONER)

## VERIFICATION

STATE OF CALIFORNIA  
COUNTY OF IMPERIAL

(C.C.P. SEC.446 & 201.5; 28 U.S.C. SEC. 1746)

I, Condalee Morris DECLARE UNDER PENALTY OF PERJURY  
THAT: I AM THE Petitioner IN THE ABOVE ENTITLED ACTION;  
I HAVE READ THE FOREGOING DOCUMENTS AND KNOW THE CONTENTS THEREOF AND THE SAME IS  
TRUE OF MY OWN KNOWLEDGE, EXCEPT AS TO MATTERS STATED THEREIN UPON INFORMATION, AND  
BELIEF, AND AS TO THOSE MATTERS, I BELIEVE THEM TO BE TRUE.

EXECUTED THIS \_\_\_\_\_ DAY OF: 10-8- 2008 AT CALIPATRIA  
STATE PRISON, CALIPATRIA, CALIFORNIA #92233-5002

(SIGNATURE)

(DECLARANT PRISONER)

## PROOF OF SERVICE BY MAIL

(C.C.P. SEC.1013 (a) & 2015.5; 28 U.S.C. SEC.1746)

I, Petitioner AM A RESIDENT OF CALIPATRIA STATE PRISON, IN THE COUNTY  
OF IMPERIAL, STATE OF CALIFORNIA. I AM OVER THE AGE OF EIGHTEEN (18) YEARS OF AGE AND AM / NOT  
A PARTY OF THE ABOVE-ENTITLED ACTION. MY STATE PRISON ADDRESS IS: P.O. BOX 5002.  
CALIPATRIA, CALIFORNIA #92233-5002.

ON 8-10 2008 I SERVED THE FOREGOING: Petition for  
writ of Habeas Corpus

(SET FORTH EXACT TITLE OF DOCUMENTS SERVED)

ON THE PARTY (S) HEREIN BY PLACING A TRUE COPY (S) THEREOF, ENCLOSED IN A SEALED ENVELOPE (S),  
WITH POSTAGE THEREON FULLY PAID, IN THE UNITED STATES MAIL, IN A DEPOSIT BOX SO PROVIDED  
AT CALIPATRIA STATE PRISON, CALIPATRIA, CALIFORNIA #92233-5002.

clerk of US District  
Court Room 4290  
880 front str San Diego  
CA 92101-8900

The supreme court  
350 McAllister str  
San Francisco, CA 94102-  
4797

THERE IS DELIVERY SERVICE BY UNITED STATES MAIL AT THE PLACE SO ADDRESSED, AND THERE IS  
REGULAR COMMUNICATION BY MAIL BETWEEN THE PLACE OF MAILING AND THE PLACE SO ADDRESSED.  
I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT.

DATE:

8 / 10 / 08

(DECLARANT PRISONER)

JS44

(Rev. 07/89)

## CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States, September 1974, is required for the use of the Clerk of Court for the purpose of initiating the docket sheet. (SEE INSTRUCTIONS ON THE SECOND PAGE OF THIS FORM.)

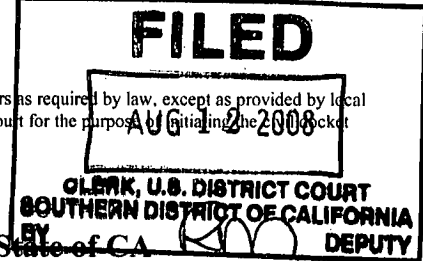
## I (a) PLAINTIFFS

Condalee Morris

People of the State of CA

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF Imperial  
(EXCEPT IN U.S. PLAINTIFF CASES)

2234 1983  
FILING FEE PAID  
Yes No  
DEFENDANTS  
IFP MOTION FILED  
Yes No  
COMPLAINT TO  
Court ProSe



RESIDENCE OF FIRST LISTED DEFENDANT  
(IN U.S. PLAINTIFF CASES ONLY)

IN CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND

(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)

Condalee Morris  
PO Box 5005  
Calipatria, CA 92233  
V-96203

ATTORNEYS (IF KNOWN)

'08 CV 1468 H POR

## II. BASIS OF JURISDICTION (PLACE AN X IN ONE BOX ONLY)

- ☐ 1 U.S. Government Plaintiff ☒ 3 Federal Question  
(U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

## III. CITIZENSHIP OF PRINCIPAL PARTIES (PLACE AN X IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)

- (For Diversity Cases Only)
- |                            |                            |   |                            |                            |
|----------------------------|----------------------------|---|----------------------------|----------------------------|
| PT                         | DEF                        |   | PT                         | DEF                        |
| <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |
- Citizen of This State  
Citizen of Another State  
Citizen or Subject of a Foreign Country

## IV. CAUSE OF ACTION (CITE THE US CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE. DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY).

28 U.S.C. 2254

## V. NATURE OF SUIT (PLACE AN X IN ONE BOX ONLY)

CONTRACT	TORTS		FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> Marine <input type="checkbox"/> Miller Act <input type="checkbox"/> Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veterans Benefits <input type="checkbox"/> 160 Stockholders Suits <input type="checkbox"/> Other Contract <input checked="" type="checkbox"/> 195 Contract Product Liability	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	<b>PERSONAL INJURY</b> <input type="checkbox"/> 362 Personal Injury-Medical Malpractice <input type="checkbox"/> 365 Personal Injury-Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 RR & Truck <input type="checkbox"/> 650 Airline Regs <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other <b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. <input type="checkbox"/> Security Act	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (13958) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(p)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS - Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reappointment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State <input type="checkbox"/> 890 Other Statutory Actions
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Tort to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 440 Other Civil Rights	<b>PRISONER PETITIONS</b> <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus <input checked="" type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights			

## VI. ORIGIN (PLACE AN X IN ONE BOX ONLY)

- ☒ 1 Original Proceeding ☐ 2 Removal from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judgment

## VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER f.r.e.p. 23

DEMAND \$

Check YES only if demanded in complaint:

JURY DEMAND: ☐ YES ☐ NO

## VIII. RELATED CASE(S) IF ANY (See Instructions): JUDGE

Docket Number

DATE 8/12/08

SIGNATURE OF ATTORNEY OF RECORD

*RM*